

# Request For Proposal

Selection of  
Sports Management Consultant  
For  
Support in Planning, Implementation and Supervision  
For  
35<sup>th</sup> National Games 2010-11

**January 2010**

National Games Secretariat  
Chandrasekharan Nair Stadium, Palayam, Thiruvananthapuram-695033,  
Kerala, India (Phone: +91 471 2302287)  
Email: [ngsceo@35thnationalgames.in](mailto:ngsceo@35thnationalgames.in)  
Website: [www.35thnationalgames.com](http://www.35thnationalgames.com)

**Reference No.: Tender/  
National Games Secretariat  
35<sup>th</sup> National Games 2010-11**

**Section 1: Introduction**

1. Kerala, India is host to the 35th edition of Indian National Games (the '**Games**'). The National Games Secretariat (the '**Employer**'), registered as a society under Travancore – Cochin Literary Scientific and Charitable Societies Act – 1955, has been assigned the responsibility of developing sporting as well as Games Village infrastructure.
2. The Project is to be implemented into two phase consisting of Phase 1) Planning & Implementation and Phase 2) Project Supervision/ Management till the end of the Games.
3. In order to coordinate the above, the Employer proposes to set-up a Project Management Office (PMO) within the Employer's office to professionally manage the Games. It is in this background that the Employer now seeks services of reputed consultancy organization having relevant experience to work as the Sports Management Consultant (SMC) as part of the PMO.
4. The employer invites proposals to provide the consulting services as per this RFP document.
5. A firm will be selected under as per the procedures described in this RFP.
6. The RFP includes the following documents:
  - Section 1 - Introduction (this section)
  - Section 2 - Information to Consultants
  - Section 3 - Technical Proposal Forms
  - Section 4 - Financial Proposal Forms
  - Section 5 - Terms of Reference
  - Section 6 - Conditions of Contract
7. Please submit the proposal by the date & time indicated in part II of the information to consultants called project specific information.

## **Section 2**

# **Information to Consultants**

# 1. PART I: STANDARD INSTRUCTIONS TO CONSULTANT

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## *1. Definitions*

(a) “Employer” means the National Games Secretariat, Kerala National Games 2010-11, which hereby invites the bids for consultancy services and with which the selected Consultant would sign the Contract for the Services and to which the selected consultant shall provide services as per the terms and conditions and Terms Of Reference of the contract.

(b) “Consultant” means any entity who is interested in submitting its proposals to provide Services to the Employer 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 Kerala.

(g) “Instructions to Consultants” (Section 2 of the RFP) means the document which provides Consultants with all information needed to prepare their proposals.

(h) “Personnel” means professionals and support staff provided by the Consultant or by any Sub-Consultant and assigned to perform the Services or any part thereof; “Foreign Personnel” means such professionals and support staff who at the time of being so provided had their domicile outside the Government’s country; “Domestic Personnel” means such professionals and support staff who at the time of being so provided had their domicile in India.

(i) “Proposal” means the Prequalification Document, Technical Proposal and the Financial Proposal.

(j) “RFP” means this Request For Proposal prepared by the Employer for the selection of Consultants.

(k) “Assignment/ job” means the work to be performed by the Consultant pursuant to the Contract.

(l) “Sub-Consultant” means any person or entity with whom the Consultant subcontracts any part of the Assignment/ job.

(m) “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 Employer and the Consultant, and expected results and deliverables of the Assignment/ job.

## **2. Introduction**

2.1 The Employer named in the Part II Data Sheet will select a consulting firm/ organization (the Consultant) in accordance with the method of selection specified in the Part II Data Sheet.

2.2 The name of the assignment/ job has been mentioned in Part II Data Sheet. Detailed scope of the assignment/ job has been described in the Terms of Reference in Section 5.

2.3 The date, time and address for submission of the proposals has been given in Part II Data Sheet.

2.4 Consultants are invited to submit their Proposal, for consulting Assignment/ job named in the Part II Data Sheet. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.

2.5 Consultants should familiarize themselves with Local conditions and take them into account in preparing their Proposals. To obtain first-hand information on the Assignment/ job and Local conditions, Consultants are encouraged to meet the Employer's representative named in part II Data Sheet before submitting a proposal and to attend a pre-proposal meeting if one is specified in the Part II Data Sheet. Attending the pre-proposal meeting is optional.

2.6 The Employer will provide at no cost to the Consultants the inputs and facilities specified in the Part II Data Sheet, assist the consultants in obtaining licenses and permits needed to carry out the Assignment/ job, and make available relevant project data and reports.

2.7 Consultants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The Employer 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 Consultants.

## **3. Consortium Proposal**

A consultant may associate with other consultant(s) and/ or individual expert(s) at the time of submission of proposal. Under such circumstances only the lead member shall be evaluated as per the prequalification/ evaluation criteria set forth in Part II data Sheet. The Employer shall deal with only the lead member for the purpose of this assignment and all the members shall be jointly & severally responsible and liable to the Employer for every aspects of their proposal, contract etc.

## **4. Clarification and Amendment of RFP Documents**

4.1 Consultants may request a clarification on any clause of the RFP documents up to the number of days indicated in the Part II Data Sheet before the proposal submission date. Any request for clarification must be sent in writing, or by standard electronic means to the Employer's address indicated in the Part II Data Sheet. The Employer will respond in writing, or by standard electronic means and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Consultants. Should the Employer deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure under para. 4.2 below.

4.2 At any time before the submission of Proposals, the Employer may amend the RFP by issuing an addendum in writing or by standard electronic means. The addendum shall be sent to all Consultants and will be binding on them. Consultants shall acknowledge receipt of all amendments. To give Consultants reasonable time in which to take an amendment into account in their Proposals the Employer may, if the amendment is substantial, extend the deadline for the submission of Proposals.

### ***5. Conflict of Interest***

5.1 Employer requires that Consultants provide professional, objective, and impartial advice and at all times hold the Employer's interests paramount, strictly avoid conflicts with other Assignment/ jobs or their own corporate interests and act without any consideration for future work.

5.2 Without limitation on the generality of the foregoing, Consultants, and any of their affiliates, shall be considered to have a conflict of interest and shall not be recruited, under any of the circumstances set forth below:

**Conflicting activities:** A firm that has been engaged by the Employer to provide goods, works or Assignment/ job other than consulting Assignment/ job for a project, and any of its affiliates, shall be disqualified from providing consulting Assignment/ job related to those goods, works or Assignment/ job. Conversely, a firm hired to provide consulting Assignment/ job for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or Assignment/ job other than consulting Assignment/ job resulting from or directly related to the firm's consulting Assignment/ job for such preparation or implementation. For the purpose of this paragraph, Assignment/ job other than consulting Assignment/job are defined as those leading to a measurable physical output, for example surveys.

**Conflicting Assignment/ job:** A Consultant (including its Personnel and Sub- Consultants) or any of its affiliates shall not be hired for any Assignment/ job that, by its nature, may be in conflict with another Assignment/ job of the Consultant to be executed for the same or for another Employer.

**Conflicting relationships** A Consultant (including its Personnel and Sub-Consultants) that has a business or family relationship with a member of the Employer's staff who is directly or indirectly involved in any part of (i) the preparation of the Terms of Reference of the Assignment/ job, (ii) the selection process for such Assignment/ job, or (iii) 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 Employer throughout the selection process and the execution of the Contract.

5.3 Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Employer, or that may reasonably be perceived as having this effect. Any such disclosure shall be made as per the Standard forms of technical proposal provided herewith. If the consultant fails to disclose said situations and if the Employer comes to know about any such situation at any time, it may lead to the disqualification of the Consultant during bidding process or the termination of its Contract during execution of assignment.

5.4 No agency or current employees of the Employer shall work as Consultants under their own ministries, departments or agencies.

### ***6. Unfair Advantage***

If a Consultant could derive a competitive advantage from having provided consulting Assignment/ job related to the Assignment/ job in question and which is not defined as conflict of interest as per para 5 above, the Employer shall make available to all Consultants together with this RFP all information that would in that respect give such Consultant any competitive advantage over competing Consultants.

### ***7. Proposal***

Consultants may only submit one proposal. If a Consultant submits or participates in more than one proposal, such proposals shall be disqualified. This is also relevant for Sub-Consultant, including individual experts.

### ***8. Proposal Validity***

The Part II Data Sheet to consultant indicates how long Consultants' Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of Professional staff nominated in the Proposal and also the financial proposal unchanged. The Employer will make its best effort to complete negotiations within this period. Should the need arise, however, the Employer may request Consultants to extend the validity period of their proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal and their financial proposal remain unchanged, or in their confirmation of extension of validity of the Proposal, Consultants could submit new staff in replacement, who would be considered in the final evaluation for contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals, under such circumstance the Employer shall not consider such proposal for further evaluation.

### ***9. Preparation of Proposals***

9.1 The Proposal as well as all related correspondence exchanged by the Consultants and the Employer, shall be written in English language, unless specified otherwise.

9.2 In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested may result in rejection of a Proposal.

9.3 Depending on the nature of the Assignment/ job, Consultants are required to submit a Technical Proposal (TP) in forms provided in Section-III. The Part II Data sheet in Section-II indicates the formats of the Technical Proposal to be submitted. Submission of the wrong type of Technical Proposal will result in the Proposal being deemed non-responsive. The Technical Proposal shall provide the information indicated in the following paras from (a) to (g) using the attached Standard Forms (Section 3). Form Tech – I in Section-III is a sample letter of technical proposal which is to be submitted along with the technical proposal.

- (a) (i) A brief description of the consultant's organization will be provided in Form Tech-2. In the same Form, the consultant will provide details of experience of assignments which are similar to the proposed assignment/ job as per the terms of reference. For each Assignment/

job, the outline should indicate the names of Sub-Consultants/ Professional staff who participated, duration of the Assignment/ job, contract amount, and Consultant's involvement. Information should be provided only for those Assignment/ jobs for which the Consultant was legally contracted by the Employer as a corporation or as one of the major firms within a joint venture. Assignment/ jobs completed by individual Professional staff working privately or through other consulting firms cannot be claimed as the experience of the Consultant, or that of the Consultant's associates, but can be claimed by the Professional staff themselves in their CVs.

(b) (i) Comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the Assignment/ job; and on requirements for counterpart staff and facilities including: administrative support, office space, Domestic transportation, equipment, data, etc. to be provided by the Employer (Form TECH-3 of Section 3).

(c) (i) A description of the approach, methodology and work plan for performing the Assignment/job covering the following subjects: technical approach and methodology, work plan, and organization and staffing schedule. Guidance on the content of this section of the Technical Proposals is provided under Form TECH-4 of Section 3. The work plan should be consistent with the Work Schedule (Form TECH-8 of Section 3) which will show in the form of a bar chart the timing proposed for each activity.

(d) The list of the proposed Professional staff team by area of expertise, the position that would be assigned to each staff team member, and their tasks is to be provided in Form TECH-5 of Section 3.

(e) Estimates of the staff input needed to carry out the Assignment/ job needs to be given in Form TECH-7 of Section 3. The staff-months input should be indicated separately for each location where the Consultants have to work and/ or provide their key staff.

(f) CVs of the Professional staff as mentioned in para 9.4 (d) above signed by the staff themselves or by the authorized representative of the Professional Staff (Form TECH-6 of Section 3).

(g) A detailed description of the proposed methodology and staffing for training needs to be given, if the Part II Data sheet specifies training as a specific component of the Assignment/ job.

9.4 The Technical Proposal shall not include any financial information. A Technical Proposal containing financial information may be declared non responsive.

9.5 Financial Proposals: The Financial Proposal shall be prepared using the attached Standard Forms (Section 4). It shall list all costs associated with the Assignment/ job, including (a) remuneration for staff and (b) reimbursable expenses indicated in the Part II Data sheet. If appropriate, these costs should be broken down by activity. The financial proposal shall not include any conditions attached to it and any such conditional financial proposal shall be rejected summarily.

### **10. Taxes**

The Consultant shall fully familiarize themselves about the applicable to Domestic taxes (such as: service tax or income taxes, duties, fees, levies) on amounts payable by the Employer under the Contract. All such taxes must be included by the consultant in the financial proposal.

### **11. Currency**

Consultants shall express the price of their Assignment/ job in India Rupees.

**12. Earnest Money Deposit (EMD)**

12.1 An EMD of Rs.1,00,000/- (Rupees One Lakh Only) in the form of demand draft drawn in favor of National Games Secretariat and payable at Thiruvananthapuram, must be submitted along with the Proposal.

12.2 Proposals not accompanied by EMD shall be rejected as non-responsive.

12.3 No interest shall be payable by the Employer for the sum deposited as EMD.

12.4 No bank guarantee will be accepted in lieu of the EMD.

12.5 The EMD of the unsuccessful bidders would be returned back within one month of signing of the contract.

12.6 The EMD shall be forfeited by the Employer in the following events:

I. If Proposal is withdrawn during the validity period or any extension agreed by the consultant thereof.

II. If the Proposal is varied or modified in a manner not acceptable to the Employer after opening of Proposal during the validity period or any extension thereof.

III. If the consultant tries to influence the evaluation process.

IV. 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).

**13. Bid Processing Fees**

All consultants are required to pay Rs.10,000/- (Rupees Ten Thousand Only) towards Bid Processing Fees in the form of demand draft drawn in favor of National Games Secretariat and payable at Thiruvananthapuram. The Bid Processing Fee is Non-Refundable. Please note that the Proposal, which does not include the bid processing fees, would be rejected as non-responsive.

**14. Submission, Receipt, and Opening of Proposal**

14.1 The original proposal, both technical and Financial Proposals shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person who signed the proposal must initial such corrections. Submission letters for both Technical and Financial Proposals should respectively be in the format of TECH-1 of Section 3, and Financial Proposal Submission Form, Section 4.

14.2 An authorized representative of the Consultants shall initial all pages of the original Technical and Financial Proposals. The authorization shall be in the form of a written power of attorney accompanying the Proposal or in any other form demonstrating that the representative has been duly authorized to sign. The signed Technical and Financial Proposals shall be marked "ORIGINAL".

14.3 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "TECHNICAL PROPOSAL". Similarly, the original Financial Proposal shall be placed in a sealed envelope clearly marked "FINANCIAL PROPOSAL" followed by the name of the Assignment/job. The envelopes containing the Technical Proposals, Financial Proposals, EMD and bid processing fees shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address, reference number be clearly marked "DO NOT OPEN, BEFORE [insert the time and date of the opening indicated in the Data sheet]". The Employer shall not be responsible for misplacement, losing or premature opening if the outer envelope is not sealed and/or marked as stipulated. This circumstance may be case for Proposal rejection. If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive.

14.4 The Proposals must be sent to the address indicated in the Data sheet and received by the Employer no later than the time and the date indicated in the Data sheet, or any extension to this date in accordance with para 4.2 above. Any proposal received by the Employer after the deadline for submission shall be returned unopened.

### ***15. Proposal Evaluation***

15.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultants should not contact the Employer on any matter related to its Technical and/ or Financial Proposal. Any effort by Consultants to influence the Employer in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the Consultants' Proposal.

15.2 The employer may constitute a Consultant Selection Committee (CSC) which will carry out the entire evaluation process. ( Members to be decided by the Executive Committee of NGS)

15.3 Evaluation of Technical Proposals: CSC while evaluating the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded and the competent authority accepts the recommendation.

15.4 The CSC shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and by applying the evaluation criteria, sub-criteria specified in the Data sheet. In the first stage of evaluation, a Proposal shall be rejected if it is found deficient as per the requirement indicated in the Data sheet for responsiveness of the proposal. Only responsive proposals shall be further taken up for evaluation. Evaluation of the technical proposal will start first and at this stage the financial bid (proposal) will remain unopened. The qualification of the consultant and the evaluation criteria for the technical proposal shall be as defined in the Data sheet.

15.5 Public opening & evaluation of the Financial Proposals:

Financial proposals of only those firms who are technically qualified shall be opened publicly on the date & time specified in the Data sheet, in the presence of the Consultants' representatives who choose to attend. The name of the Consultants, their technical score (if required) and their financial proposal shall be read aloud.

15.6 The CSC will correct any computational errors. When correcting computational errors, in case of discrepancy between a partial amount and the total amount, or between word and figures, the former will prevail. In addition to the above corrections the items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items.

In case an activity or line item is quantified in the Financial Proposal differently from the Technical Proposal, no corrections are applied to the Financial Proposal in this respect.

15.7 After opening of financial proposals, the lowest bidder will be selected.

#### **16. Award of Contract**

16.1 After completing negotiations the Employer shall issue a Letter of Intent to the selected Consultant and promptly notify all other Consultants who have submitted proposals about the decision taken.

16.2 The consultants will sign the contract after fulfilling all the formalities/ pre-conditions mentioned in the standard form of contract in Section-6, within 15 days of issuance of the letter of intent.

16.3 The Consultant is expected to commence the Assignment/ job on the date and at the location specified in the Part II Data Sheet.

#### **17. Confidentiality**

Information relating to evaluation of Proposals and recommendations concerning awards shall not be disclosed to the Consultants who submitted the Proposals or to other persons not officially concerned with the process, until the publication of the award of Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal and may be subject to the provisions of the Employer's antifraud and corruption policy.

## 2. PART II : DATA SHEET OF INSTRUCTIONS

Clause No.	Ref. of Part I	Particulars
1	2.2	Name of the Employer: <b>National Games Secretariat</b>
2	2.2	Name of the Assignment/job is: <b>Selection of Sports Management Consultant for Support in Planning, Implementation and Supervision for Kerala National Games 2010-11</b>
3	2.5	A pre-proposal meeting will be held: Yes Date: January 20, 2010 Time: 15 00 Hours Venue: National Games Secretariat, Chandrasekharan Nair Stadium, Palayam, Thiruvananthapuram, Kerala, India
4	14.4	Date & time and address for submission of proposal/ bid: Date: February 1, 2010 Time: 16 00 Hours Address: National Games Secretariat, Chandrasekharan Nair Stadium, Palayam, Thiruvananthapuram, Kerala, India
5	2.5	The Employer's representative is: Mr. M.S. Jaya Address: National Games Secretariat, Chandrasekharan Nair Stadium, Palayam, Thiruvananthapuram, Kerala, India Telephone: +91 471 2302287 Facsimile: +91 471 2302267 E-mail: <a href="mailto:ngskerala2010@gmail.com">ngskerala2010@gmail.com</a>
6	2.6	The Employer will: <ul style="list-style-type: none"> <li>• Facilitate meetings with stakeholders.</li> <li>• Ensure that the internal people required for interaction would be made available as and when required.</li> <li>• Provide copies of relevant previous reports/ documents</li> </ul>
7	7	The Employer envisages the need for continuity for downstream work: No
8	8.1	Proposals must remain valid for 90 days after the submission date.
9	4.1	Clarifications may be requested not later than 15 days before the submission date and should be addressed to the Employer's representative.
11	9.4	The formats of the Technical Proposal to be submitted are: Form Tech 1: Letter of Proposal submission Form Tech 2: Consultant's organization & experience Form Tech 3: Comments & suggestions on TOR Form Tech 4: Approach & methodology Form Tech 5: Team composition Form Tech 6: Curriculum vitae Form Tech 7: Staffing Schedule Form Tech 8: Work Schedule Form Tech 9: Comment/ modification suggested on draft contract. Form Tech 10: Information regarding any conflicting activities and declaration thereof.
12		Training is a specific component of this Assignment/ job: No
13	11.1	Consultant to state the cost in Indian Rupees.
14	14.3	Consultants are expected to submit their proposal across the following three

		documents (each in separate envelope) 1. Prequalification Document 2. Technical Proposal 3. Financial Proposal It must submit 1 original + 1 copy of the Prequalification Document & Technical Proposal, and the original of the Financial Proposal.																												
15	15.4	<p>Before opening and evaluation of the technical proposals, Consultants Prequalification Document would be evaluated to assess their compliance to the following pre-qualification criteria.</p> <p>Bidders failing to meet these criteria or not submitting requisite proof for supporting pre-qualification criteria are liable to be rejected at the technical proposal level. All proposals are expected to be complete in all respect including supporting document. The Employer may reject document which are submitted without sufficient supporting documents as desired in the RFP</p> <table border="1"> <thead> <tr> <th>S. No.</th> <th>Criteria</th> <th>Whether Met</th> <th>Supporting Documents to be submitted</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>The bidder should be an organization registered in India, registered with the Service Tax Authorities and operating for the last three years.</td> <td>Yes/ No</td> <td>Copy of certificate of incorporation and Copy of Service Tax registration certificate</td> </tr> <tr> <td>2</td> <td>The bidder should have a minimum average turnover of Rs 5,00,00,000 /- ( Rupees Five Crores only) during the last three Financial Years (2006-07, 2007-08 and 2008-09). It should have profits in each of these three financial years.</td> <td>Yes/ No</td> <td>Certified extract of the audited profit/ loss statement and balance sheet</td> </tr> <tr> <td>3</td> <td>Out of the total turnover of the bidder, in each of the last three years, at least 75% should be from consulting services.</td> <td>Yes/ No</td> <td>Declaration certified by the statutory auditor</td> </tr> <tr> <td>4</td> <td>The bidder should have at least 20 full time qualified consulting services professionals on its rolls.</td> <td>Yes/ No</td> <td>Self-certification by the authorized signatory</td> </tr> <tr> <td>5</td> <td>The bidder should have successfully completed at least one sports consultancy assignment with State/ Central Government Department or Games Organizing Body in last three years.</td> <td>Yes/ No</td> <td>Copy of Work Order or Completion Certificate.</td> </tr> <tr> <td>6</td> <td>The bidder should have undertaken at least one sports consultancy assignment at the</td> <td>Yes/ No</td> <td>Copy of Work Order.</td> </tr> </tbody> </table>	S. No.	Criteria	Whether Met	Supporting Documents to be submitted	1	The bidder should be an organization registered in India, registered with the Service Tax Authorities and operating for the last three years.	Yes/ No	Copy of certificate of incorporation and Copy of Service Tax registration certificate	2	The bidder should have a minimum average turnover of Rs 5,00,00,000 /- ( Rupees Five Crores only) during the last three Financial Years (2006-07, 2007-08 and 2008-09). It should have profits in each of these three financial years.	Yes/ No	Certified extract of the audited profit/ loss statement and balance sheet	3	Out of the total turnover of the bidder, in each of the last three years, at least 75% should be from consulting services.	Yes/ No	Declaration certified by the statutory auditor	4	The bidder should have at least 20 full time qualified consulting services professionals on its rolls.	Yes/ No	Self-certification by the authorized signatory	5	The bidder should have successfully completed at least one sports consultancy assignment with State/ Central Government Department or Games Organizing Body in last three years.	Yes/ No	Copy of Work Order or Completion Certificate.	6	The bidder should have undertaken at least one sports consultancy assignment at the	Yes/ No	Copy of Work Order.
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		<p>national level with State/ Central Government Department in last three years having a project cost of Rs 10,00,00,000 /- (Rupees Ten Crores only )</p> <p>The projects cited should cover:</p> <ul style="list-style-type: none"> <li>• Project structuring</li> <li>• Bid process management</li> <li>• Project management</li> </ul>														
16	15.4	<p>Criteria, sub-criteria and point system for technical evaluation of the bids shall be as under:</p> <table border="1"> <thead> <tr> <th>S. No.</th> <th>Evaluation Criteria</th> <th>Maximum Score</th> </tr> </thead> <tbody> <tr> <td>1</td> <td> <p><b>Firm Profile (Indian Operation)</b></p> <p>Average Turnover from Indian Operations from Consulting Services in last three years</p> <p>Full Time Professional Staff Engaged in Consulting Services</p> <p>Extent of operations in India (National spread)</p> <p>Quality Certifications (ISO etc.)</p> </td> <td> <p><b>25</b></p> <p>10</p> <p>10</p> <p>3</p> <p>2</p> </td> </tr> <tr> <td>2</td> <td> <p><b>Experience of Firm</b></p> <p>Completed sports consulting experience in National/ International sports events</p> <p>Ongoing sports consulting experience of prime bidder in National/ International sports events</p> <p>Other Consulting experience in Kerala, India</p> <p>Consulting experience involving project structuring, bid process management and project management for State/ Central Government Departments/ Games organizing bodies, India</p> <p><u>Note:</u> All the above experiences shall be considered only when the services have been provided as sole/ lead consultant.</p> </td> <td> <p><b>35</b></p> <p>10</p> <p>10</p> <p>5</p> <p>10</p> </td> </tr> <tr> <td>3</td> <td> <p><b>Proposed Methodology &amp; Work Plan</b></p> <p>The adequacy of the proposed methodology and work plan would be evaluated on the basis of the following:</p> <ul style="list-style-type: none"> <li>• Understanding of the Objectives of the Assignment: The extent to which the consultants' approach and work plan respond to the objectives</li> </ul> </td> <td> <p><b>20</b></p> <p>5</p> </td> </tr> </tbody> </table>			S. No.	Evaluation Criteria	Maximum Score	1	<p><b>Firm Profile (Indian Operation)</b></p> <p>Average Turnover from Indian Operations from Consulting Services in last three years</p> <p>Full Time Professional Staff Engaged in Consulting Services</p> <p>Extent of operations in India (National spread)</p> <p>Quality Certifications (ISO etc.)</p>	<p><b>25</b></p> <p>10</p> <p>10</p> <p>3</p> <p>2</p>	2	<p><b>Experience of Firm</b></p> <p>Completed sports consulting experience in National/ International sports events</p> <p>Ongoing sports consulting experience of prime bidder in National/ International sports events</p> <p>Other Consulting experience in Kerala, India</p> <p>Consulting experience involving project structuring, bid process management and project management for State/ Central Government Departments/ Games organizing bodies, India</p> <p><u>Note:</u> All the above experiences shall be considered only when the services have been provided as sole/ lead consultant.</p>	<p><b>35</b></p> <p>10</p> <p>10</p> <p>5</p> <p>10</p>	3	<p><b>Proposed Methodology &amp; Work Plan</b></p> <p>The adequacy of the proposed methodology and work plan would be evaluated on the basis of the following:</p> <ul style="list-style-type: none"> <li>• Understanding of the Objectives of the Assignment: The extent to which the consultants' approach and work plan respond to the objectives</li> </ul>	<p><b>20</b></p> <p>5</p>
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		<p>indicated in the Statement of Work.</p> <ul style="list-style-type: none"> <li>• Completeness and Responsiveness: The extent to which the proposal responds exhaustively to all the requirements of the Terms of Reference. 5</li> <li>• Resource Utilization: Appropriate staffing schedule and mix of project team members. 5</li> <li>• Timeliness of Output: proposed task and delivery schedule provide the requested outputs in a timely manner. 5</li> </ul>										
		<p>4 <b>Quality and Competency of Key Professional Staff Proposed</b> <b>20</b></p> <p>The bidder shall designate certain employees as Key Personnel who are expected to be retained for the entire deployment period unless otherwise changed, substituted or replaced as per the terms of the contract. It is expected that the consultants' project team would at least include:</p> <table border="0"> <tr> <td>1. Project Manager (1) – Minimum Exp.: 10 Years</td> <td>06</td> </tr> <tr> <td>2. Bid Mgt. Specialist (1) – Mini. Exp.: 10 Years</td> <td>04</td> </tr> <tr> <td>3. Event Mgt. Specialist (1) – Mini. Exp.: 10 Years</td> <td>04</td> </tr> <tr> <td>4. Sports Specialist (1) – Minimum Exp.: 5 Years</td> <td>03</td> </tr> <tr> <td>5. Other experts (2-3) – Mini. Exp.: 3 Years</td> <td>03</td> </tr> </table> <p>The evaluation of Key Personnel would be based on their adequacy for the Assignment with respect to the education, experience of the candidate in the specific sector, field, subject, and so on - directly relevant to the assignment and the proposed position.</p>	1. Project Manager (1) – Minimum Exp.: 10 Years	06	2. Bid Mgt. Specialist (1) – Mini. Exp.: 10 Years	04	3. Event Mgt. Specialist (1) – Mini. Exp.: 10 Years	04	4. Sports Specialist (1) – Minimum Exp.: 5 Years	03	5. Other experts (2-3) – Mini. Exp.: 3 Years	03
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17	15.7	<p><b>Method of Selection:</b></p> <p>The Selection of the consultants would follow a three stage process:</p> <p><b><u>Stage 1: Pre-qualification</u></b> - All the firms responding to this tender would need to meet the pre-qualification criteria set in this RFP as per details provided at S.No.15.</p> <p><b><u>Stage 2: Technical qualification</u></b> – Technical proposals of all the firms which meet the requirements of Stage 1 would be taken up for evaluation as per the technical bid evaluation criteria listed at S.No.16. All firms scoring 70 or above would be technically qualified and would move into Stage 3.</p> <p><b><u>Stage 3: Financial and Selection</u></b> – Financial proposals of all the firms that meet the technical qualifications would be opened. The financial bid evaluation will be based on the lowest bid</p>										
18		Expected date for commencement of consulting Assignment/ job: March 1, 2010										
19		Location for performance of Assignment/ job: Thiruvananthapuram, Kerala, India										

## Section 3

# Technical Proposal Forms

## **FORM TECH-1: LETTER OF PROPOSAL SUBMISSION (On Letter Head)**

[Location, Date]

To:

National Games Secretariat  
Kerala National Games 2010-11  
Chandrasekharan Nair Stadium, Palayam,  
Thiruvananthapuram, Kerala,  
India

Dear Sir,

We, the undersigned, offer to provide the support services as Sports Management Consultant on Planning, Implementation and Supervision for Kerala National Games 2010-11 in accordance with your Request for Proposal dated January 5th, 2010 and our Proposal. We are hereby submitting our Proposal, which includes Prequalification Document, Technical Proposal, and a Financial Proposal sealed under a separate envelope and requisite EMD and bid processing fees.

We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification. If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in Paragraph 4 of the Part II Data Sheet, we undertake to negotiate on the basis of the proposed staff.

Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

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

We remain,

Yours sincerely,

(Signature of the Consultant)

Name :

Designation :

Seal :

Date :

Place :

Business Address:

## FORM TECH-2: CONSULTANT'S ORGANIZATION AND EXPERIENCE

### A - Consultant's Organization (To be provided in the Prequalification Document)

Name of Organization	
Date of Incorporation	
Service Tax Registration Date and Number	
Registered Office	
Annual Turnover in Rs. from Indian Operations (Total) for Financial Year: 2006-07 2007-08 2008-09 Average for the last 3 years :	
Annual Turnover in Rs. from Consultancy Services from Indian Operations for Financial Year: 2006-07 2007-08 2008-09	
Number of Full Time Professional Staff (consulting operations)	

### B - Consultant's Experience (To be provided in the Technical Proposal)

[Using the format below, provide information on each assignment for which your firm was legally contracted as a **corporate entity (individual experience should not be quoted as firm experience)** or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under this assignment (**Refer to SI No. 16(2) of the Data Sheet**). Experience of sub-contractor including parent company may be stated only if the relevant Memorandum of Understanding (MoU) is submitted]

Name of Consultant/Firm:	
Assignment/job name:	
Nature of Assignment:	
Description of Project	
Approx. value of the contract for the firm (in Rupees):	
Country:	
Location within country:	
Duration of Assignment/ job (months) :	
Name of Employer:	

Address and contact details:	
Total No of staff-months of the Assignment/ job:	
Completion date (month/year):	
Name of lead Consultants, if not the lead:	
No of professional staff-months provided by associated Consultants:	
Name of senior professional staff of your firm involved and functions performed.	
Description of actual Assignment/ job provided by your staff within the Assignment/job:	
Are any of the team members proposed in this assignment	Yes / No

Note: Please attach Letter of Intent or Work Order or certificate of successful completion for each project, from the respective Client(s).

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## **FORM TECH-3: COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE**

### **A - On the Terms of Reference**

*[Suggest and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the Assignment/ job (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal.]*

### **B - On Inputs and Facilities to be provided by the employer**

*[Comment here on Inputs and facilities to be provided by the Employer according to Paragraph 6 of the Part II Special information to consultants including: administrative support, office space, Domestic transportation, equipment, data, etc.]*

## **FORM TECH-4: APPROACH, METHODOLOGY AND WORK PLAN**

*[Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal divided into the following three chapters:*

*a) Technical Approach and Methodology. In this chapter you should explain your understanding of the objectives of the Assignment/ job, approach to the Assignment/ job, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.*

*b) Work Plan. The consultant should **propose and justify** the main activities of the Assignment/ job, their content and duration, phasing and interrelations, milestones (including interim approvals by the Employer), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work Schedule of Form TECH-8.*

*c) Organization and Staffing. The consultant should **propose and justify** the structure and composition of your team. You should list the main disciplines of the Assignment/ job, the key expert responsible, and proposed technical and support staff.]*



## FORM TECH-6 : CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

[For each position of key professional separate form Tech-6 will be prepared]:

1	Name of Firm: <i>[Insert name of firm proposing the staff]</i>
2	Name of Staff: <i>[Insert full name]</i>
3	Proposed Role in Project:
4	Whether the service would be available full time for the Project: Yes/No
5	Date of Birth:
6	Nationality:
7	Education: <i>[Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]</i>
8	Membership of Professional Associations:
9	Other Training:
10	Countries of Work Experience: <i>[List countries where staff has worked in the last ten years]</i>
11	Languages  <i>[For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]</i>
12	Employment Record: From [Year]: To [Year]: Employer: Positions held:  <i>[Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment.]</i>
13	Detailed Tasks Assigned  <i>[List all tasks to be performed under this Assignment/job]</i>
14	Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned  Name of Assignment/job or project: Year: Location: Employer: Main project features: Positions held: Activities performed:  <i>[Among the Assignment/jobs in which the staff has been involved, indicate the following information for those Assignment/jobs that best illustrate staff capability to</i>

	<i>handle the tasks listed under point 13.]</i>
15	Certification: I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.
16	[Signature of staff member or authorized representative of the staff]
17	[Full name of authorized representative]
18	Date:
19	Place:

## FORM TECH-7: STAFFING SCHEDULE

S.No.	Name of Staff	Fulltime (Y/N)	Staff input (in the form of a bar chart)											Total Months		
			1	2	3	4	5	6	7	8	9	..	...		..	
1																
2																
3																

**FORM TECH-8: WORK SCHEDULE**

S.No.	Tasks to be performed	Months											Total Months	
		1	2	3	4	5	6	7	8	9	...	...		...
<b>1</b>														
<b>2</b>														
<b>3</b>														

1 Indicate all main activities delivery of reports and benchmarks, such as Employer approvals, separately for each phase.

2 Duration of activities shall be indicated in the form of a bar chart.

## **FORM TECH-9: COMMENTS/ MODIFICATIONS SUGGESTED ON DRAFT CONTRACT**

*[Here the consultant shall mention any suggestion/ views on the draft contract attached with the RFP document. The consultant may also mention here any modifications sought by him in the provisions of the draft contract. This information shall be used at the time of the negotiations. However, the Employer is not bound to accept any/ all modifications sought and may reject any such request of modification.]*

<b>S. No.</b>	<b>Clause number in Section 6-Conditions of Contract</b>	<b>Brief Narration</b>	<b>Deviation</b>	<b>References of Annexure attached as Supporting Documents</b>

**FORM TECH-10: DECLARATION FORM**

Are there any activities carried out by your firm or group company or any member of the consortium which are of conflicting nature as mentioned in para 5 of section 2. If yes, please furnish details of any such activities. If no, please certify,

We hereby declare that our firm is not indulged in any such activities which can be termed as the conflicting activities under para 5 of the section 2. We also acknowledge that in case of misrepresentation of the information, our proposals/ contract shall be rejected/ terminated by the Employer which shall be binding on us.

## Section 4 Financial Proposal Form

## **FINANCIAL PROPOSAL SUBMISSION FORM (On Letter head)**

To:

National Games Secretariat  
Kerala National Games 2010-11  
Chandrasekharan Nair Stadium, Palayam,  
Thiruvananthapuram, Kerala,  
India

Dear Sir,

We, the undersigned, offer to provide the support services as Sports Management Consultant on Planning, Implementation and Supervision for Kerala National Games 2010-11 in accordance with your Request for Proposal dated November 1, 2009 and our Technical Proposal. Our attached Financial Proposal is for the sum of [Insert amount(s) in words and figures] Rs..... per man month (representing our blended man-month rate). This amount is inclusive of all the Domestic taxes.

We hereby confirm that the financial proposal is unconditional and we acknowledge that any condition attached to financial proposal shall result in rejection of our financial proposal. 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 Paragraph 4 of the Part II Data Sheet.

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

We remain,

Yours sincerely,

(Signature of the Consultant)

Name :

Designation :

Seal :

Date :

Place :

## Section 5 Terms of Reference

**BACKGROUND**

The National Games is a sporting event held in India. It comprises various disciplines in which sportsmen from the different states of India participate against each other. The Games were held every two years from 1924 as Indian Olympic Games and were renamed as National Games when they were first held in Lucknow in 1948 post Indian Independence. The Indian Olympic Association, the premier sports organizing body of the nation, mooted the concept of these Games.

The 35<sup>th</sup> edition of National Games will be hosted by the Government of Kerala. The National Games Secretariat (NGS) is the body constituted by the Government of Kerala for organizing the Games in the State. It has been assigned the responsibility of not only developing the sports and Games Village infrastructure but also managing the various functional areas involved. A National Games Organising Committee and 18 Sub Committees apart from local / regional Organising Committees have also been constituted for the conduct of the Games.

The sub committees are :

1) Reception 2) Accommodation 3) Ceremonies & Cultural 4) Communication & Technology 5) Food 6) Transportation 7) Finance 8) Medical 9) Volunteer 10) Infrastructure 11) Technical 12) Publicity 13) Sponsorship & marketing 14) Anti Doping 15) Accreditation 16) Souvenir 17) Security & Fire Safety 18) Media

Local Organizing Committees have been setup at Kollam, Alleppey, Kochi, Trichur, Kozhikode and Kannur

NGS, through this RFP, intends to hire the services of consultants to assist it in not only planning for the Games but also in implementing the plans and supervision during the Games period.

**SCOPE OF WORK**

NGS seeks support from the Consultant at three levels, viz. strategic support to the Chief Executive Officer, tactical planning for each functional area and implementation assistance to each functional area. Various sub-committees covering the typical functional areas are already set-up to take planning as well as implementation decisions and the consultant shall provide all support required for their smooth functioning.

On a time scale, from the day of appointment of the consultant till the start of the Games, the support required would be in areas of planning and implementation. This would be called as Phase 1. Phase 2 will be the Games period during which the consultant shall provide project management/ supervision services.

It is in this background that NGS now seeks services of reputed consultancy organization having relevant experience to work as the Sports Management Consultant (SMC) as part of the NGS. The terms of reference of the SMC under both the phases would be as under:

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**Phase 1 (Time Period: Date of Appointment till Start of Games)**


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The Consultant would be required to undertake the following key tasks and any other tasks associated with completion of these key tasks:

- a) To examine various functional needs for the conduct of the 35<sup>th</sup> National Games and to suggest implementation strategies for each function.
- b) To draw strategic inputs for each functional area of conduct of national games through learning from past Games experience.
- c) To help identify the various third party professional service providers for the following areas already identified by the NGS and any such other areas:

Event management	– To Support the Ceremonies Committee
Marketing Agency	– To support the Sponsorship & Finance Committee
PR Agency	– To support the Media & Publicity committee
Catering Agency	– To support the Food Committee
Housekeeping Agency	-To support the Accommodation Committee
Ticketing Agency	- To support the Finance Committee
Transporting Agency	– To support the Transportation committee
Security Agency	– To support the Security Committee
Event Logistics Agency	– To support logistical aspects of various committees.

- d) Framing requirement and role of third parties including the business model
  - Advice on implementation options for implementing each sub-activity, by leveraging Private Sector expertise
  - Estimate the costing for each sub-activity
- e) Draft RFPs for selection of third parties, meeting the Ministry of Finance, Government of India/ General Finance Rules guidelines and Government of Kerala procedures covering the following aspects:
  - Functional area brief
  - Technical/ performance requirements
  - Contractual terms and conditions
  - General instructions and commercial specifications
- f) Bid process management for third party selection under each functional area
  - Evaluation of third party's organization strengths
  - Evaluation of third party's project implementation approach and methodology
  - Evaluation and benchmarking of technical solution/ products offered by the third parties
  - Evaluation of third party's project management strengths
  - Evaluation of third party's technical presentations, ownership and approach towards the entire project
  - Support in evaluation and normalization of commercial bids submitted by the third parties
  - Submit report on technical and financial evaluation of bids including assessment of deviations proposed in bids.

- g) Assistance in contract finalization
  - Coordination with Internal departments for finalization of contract
  - Assistance in finalization of contract
  - Issue of LOI and finalization of contract/ concession agreement
  - Assistance in contract negotiation
- h) Assistance in assessing the performance of the third parties, particularly with respect to the adequacy and completeness of the final product supplied/ service rendered.
- i) Establishing a Progress monitoring system in the office including periodic project status report templates & formulating a reporting process to ensure effective monitoring and control at each functional area

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**Phase 2 (Time Period: During Games period)**

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The consultant shall depute dedicated resources at each major Games venue during the Games period. The scope of work in this phase shall include:

- a) Assist and provide guidance in operations of each activity under all functional areas
- b) Review the operations with the objective of ensuring minimal errors
- c) Assistance in corrective action, if required
- d) Post-Games closure of third party contracts
- e) Submission of Post-Games Detailed Project Report

**TERMS OF PAYMENT**

The payment to the consultant shall be based on an estimate of man-months finalized with the consultant at the time of negotiations/ signing of the contract. As a tentative estimate, NGS envisages utilization of consultant's services for at least 15 man-months. A review of the estimate will be undertaken at the end of six-months from the date of signing of the contract and the succeeding payments will be adjusted accordingly. Similarly, a final review will be undertaken at the end of the Games and final balance shall be adjusted accordingly.

The payment shall be made in the following manner:

<b>Phase</b>	<b>Percentage of Total Fees</b>
Mobilization advance on signing of contract	10%
Submission of inception report	10%
Quarterly installments	15% each
Submission of Post-Games Detailed Project Report	Balance

## Section 6 Condition of Contracts

**CONTRACT FOR CONSULTANTS' SERVICES**

between

National Games Secretariat, Kerala National Games 2010-11

and

[name of the Consultant]

Dated:

This CONTRACT (hereinafter called the "Contract") is made the [day] day of the month of [month], [year], between, on the one hand, National Games Secretariat, Kerala National Games 2010-11 (hereinafter called the "Employer") and, on the other hand, [name of Consultant] (hereinafter called the "Consultant").

**WHEREAS**

(a) the "Employer" has requested the Consultant to provide certain consulting services as defined in this Contract and mentioned in Appendix A of the contract (hereinafter called the "Services");

(b) the Consultant, having represented to the "Employer" that he has the required professional skills, and personnel 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) The following Appendices:
  - Appendix A: Description of Services
  - Appendix B: Reporting Requirements
  - Appendix C: Staffing schedule
  - Appendix D: Cost Estimates
  - Appendix E: Duties of the "Employer"

2. The mutual rights and obligations of the "Employer" and the Consultant shall be as set forth in the Contract, in particular:

- (a) the Consultants shall carry out the Services in accordance with the provisions of the Contract; and
- (b) the "Employer" shall make payments to the Consultant 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.

1. For and on behalf of National Games Secretariat, Kerala National Games 2010-11]

[Authorized Representative]

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

[Authorized Representative]

## **II. GENERAL CONDITIONS OF CONTRACT**

### ***I. GENERAL PROVISIONS***

#### **1.1 Definitions**

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) “Consultant” means any private or public entity that will provide the Services to the “Employer” under the Contract.
- (c) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is this General Conditions (GC), the Special Conditions (SC), and the Appendices.
- (d) “Day” means calendar day.
- (e) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- (f) “Foreign Currency” means any currency other than the currency of the “Employer’s” country.
- (g) “GC” means these General Conditions of Contract.
- (h) “Government” means the Government of Kerala.
- (i) “Local Currency” means Indian Rupees.
- (j) “Party” means the “Employer” or the Consultant, as the case may be, and “Parties” means both of them.
- (k) “Personnel” means professionals and support staff provided by the Consultants or by any Sub-Consultants and assigned to perform the Services or any part thereof; “Foreign Personnel” means such professionals and support staff who at the time of being so provided had their domicile outside the Government’s country; “Local Personnel” means such professionals and support staff who at the time of being so provided had their domicile inside the Government’s country; and “Key Personnel” means the Personnel referred to in Clause GC 4.2(a).
- (l) “Reimbursable expenses” means all assignment-related costs other than Consultant’s remuneration.
- (m) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented.
- (n) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- (o) “Sub-Consultants” means any person or entity to whom/which the Consultant subcontracts any part of the Services.
- (p) “Third Party” means any person or entity other than the Government, the “Employer”, the Consultant or a Sub-Consultant.
- (q) “In writing” means communicated in written form with proof of receipt.

#### **1.2 Relationship Between the Parties**

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

### 1.3 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Laws in India.

### 1.4 Headings

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

### 1.5 Notices

1.5.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. 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 SC.

1.5.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SC.

### 1.6 Location

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 “Employer” may approve.

### 1.7 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the “Employer” or the Consultant may be taken or executed by the officials specified in the SC.

### 1.8 Taxes and Duties

The Consultant, Sub-Consultants and Personnel shall pay such direct and indirect taxes, duties, fees and other impositions levied under the Applicable Laws in India.

### 1.9 Fraud and Corruption

#### 1.9.1 Definitions

It is the Employer’s policy to require that Employers as well as Consultants observe the highest standard of ethics during the execution of the Contract. In pursuance of this policy, the Employer defines, for the purpose of this provision, the terms set forth below as follows:

- (i) “corrupt practice” means the offering, receiving, or soliciting, directly or indirectly, of any thing of value to influence the action of a public official in the selection process or in contract execution;
- (ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;
- (iii) “collusive practices” means a scheme or arrangement between two or more consultants, with or without the knowledge of the Employer, designed to establish prices at artificial, noncompetitive levels;
- (iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract;

#### 1.9.2 Measures to be taken by the Employer

- (a) The Employer will terminate the contract if it determines at any time that representatives of the consultant were engaged in corrupt, fraudulent, collusive or coercive practices during the selection process or the execution of that contract, without the consultant having taken timely and appropriate action satisfactory to the Employer to remedy the situation;
- (b) The Employer will sanction the Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the Consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Employer-financed contract;

### 1.9.3 Commissions and Fees

The Employer will require the successful Consultants to disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents 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, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.

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

### 2.1 Effectiveness of Contract

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

### 2.2 Termination of Contract for Failure to Become Effective

If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SC, either Party may, by not less than twenty one (21) 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.

### 2.3 Commencement of Services

The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.

### 2.4 Expiration of Contract

Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.

### 2.5 Entire Agreement

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.

### 2.6 Modifications or Variations

(a) 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. Pursuant to Clause GC 7.2 here of, however, each Party shall give due consideration to any proposals for modification or variation made by the other Party. (b) In cases of substantial modifications or variations, the prior written consent of the Employer is required.

## 2.7 Force Majeure

### 2.7.1 Definition

(a) 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 which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and 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 (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.

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

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

### 2.7.2 No Breach of Contract

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.

### 2.7.3 Measures to be Taken

(a) 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.

(b) 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) 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.

(c) 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.

(d) 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 “Employer”, shall either: (i) demobilize,; or (ii) continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract. (e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 8.

## 2.8 Suspension

The “Employer” 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) days after receipt by the Consultant of such notice of suspension.

## 2.9 Termination

### 2.9.1 By the "Employer"

The "Employer" may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (g) of this Clause GC 2.9.1. In such an occurrence the "Employer" shall give a not less than thirty (30) days' written notice of termination to the Consultants, and sixty (60) days' in case of the event referred to in (h).

(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 GC 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the "Employer" may have subsequently approved in writing.

(b) If the Consultant becomes insolvent 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 GC 8 hereof.

(d) If the Consultant, in the judgment of the "Employer", has engaged in corrupt or fraudulent practices in competing for or in executing this Contract.

(e) If the Consultant submits to the "Employer" a false statement which has a material effect on the rights, obligations or interests of the "Employer".

(f) If the consultant fails to provide the quality services as envisaged under this agreement. The Consultancy Monitoring Committee (CMC) formulated to monitor the progress of the assignment may make judgment regarding the poor quality of services, the reasons for which shall be recorded in writing. The CMC may decide to give one chance to the consultant to improve the quality of the services.

(g) 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) days.

(h) If the "Employer", in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

### 2.9.2 By the Consultant

The Consultant may terminate this Contract, by not less than thirty (30) days' written notice to the "Employer", in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GC 2.9.2.

(a) If the "Employer" fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 hereof within forty-five (45) 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) days.

(c) If the "Employer" fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

(d) If the "Employer" 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 "Employer" of the Consultant's notice specifying such breach.

### 2.9.3 Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clauses GC 2.2 or GC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, 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 GC 3.3 hereof,
- (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.6 hereof, and
- (iv) any right which a Party may have under the Applicable Law.

#### 2.9.4 Cessation of Services

Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, 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 "Employer", the Consultant shall proceed as provided, respectively, by Clauses GC 3.9 or GC 3.10 hereof.

#### 2.9.5 Payment upon Termination

Upon termination of this Contract pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the "Employer" shall make the following payments to the Consultant: (a) If the agreement is terminated pursuant to Clause 2.9.1 (g), (h) or 2.9.2, remuneration pursuant to Clause GC 6.3(h)(i) hereof for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures pursuant to Clause GC 6.3(h)(ii) hereof for expenditures actually incurred prior to the effective date of termination; (b) If the agreement is terminated pursuant of Clause 2.9.1 (a) to (f), the consultant shall not be entitled to receive any payments upon termination of the contract. Under such circumstances, upon termination, the client may also impose liquidated damages as per the provisions of Clause 9 of this agreement. The consultant will be required to pay any such liquidated damages to client within 30 days of termination date.

#### 2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in paragraphs (a) through (g) of Clause GC 2.9.1 or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (30) days after receipt of notice of termination from the other Party, refer the matter to Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

### ***3. OBLIGATIONS OF THE CONSULTANT***

#### 3.1 General

##### 3.1.1 Standard of Performance

The Consultant shall perform the Services and carry out their obligations hereunder 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 faithful adviser to the "Employer", and shall at all times support and safeguard the "Employer"'s legitimate interests in any dealings with Sub-Consultants or Third Parties.

##### 3.1.2 Law Governing Services

The Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants, comply with the Applicable Law. The "Employer" shall notify the

Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

### 3.2 Conflict of Interests

The Consultant shall hold the “Employer”’s interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

#### 3.2.1 Consultant not to benefit from Commissions, Discounts, etc.

(a) The payment of the Consultant pursuant to Clause GC 6 hereof shall constitute the Consultant’s only payment in connection with this Contract and, subject to Clause GC 3.2.2 hereof, 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 Personnel and agents of either of them, similarly shall not receive any such additional payment.

(b) Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the “Employer” on the procurement of goods, works or services, the Consultant shall comply with the Employer’s applicable procurement guidelines, and shall at all times exercise such responsibility in the best interest of the “Employer”. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the “Employer”.

#### 3.2.2 Consultant and Affiliates Not to Engage in Certain Activities

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 services (other than consulting services) resulting from or directly related to the Consultant’s Services for the preparation or implementation of the project.

#### 3.2.3 Prohibition of Conflicting Activities

The Consultant shall not engage, and shall cause their Personnel as well as their Sub-Consultants and their Personnel 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.

### 3.3 Confidentiality

Except with the prior written consent of the “Employer”, the Consultant and the Personnel 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 Personnel make public the recommendations formulated in the course of, or as a result of, the Services.

### 3.4 Liability of the Consultant

Subject to additional provisions, if any, set forth in the SC, the Consultants’ liability under this Contract shall be provided by the Applicable Law.

### 3.5 Insurance to be Taken out by the Consultant

The Consultant (i) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain insurance, at their (or the Sub-Consultants’, as the case may be) own cost but on terms and conditions approved by the “Employer”, insurance against the risks, and for the coverage specified in the SC, and (ii) at the “Employer”’s request, shall provide evidence to the “Employer” showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.

### 3.6 Accounting, Inspection and Auditing

The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof, and (ii) shall periodically permit the “Employer” or its designated representative and/or the Employer, and up to five years from expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the “Employer” or the Employer, if so required by the “Employer” or the Employer as the case may be.

### 3.7 Consultant’s Actions Requiring “Employer”’s Prior Approval

The Consultant shall obtain the “Employer’s” prior approval in writing before taking any of the following actions:

- (a) Any change or addition to the Personnel listed in Appendix C.
- (b) Subcontracts: the Consultant may subcontract work relating to the Services to an extent and with such experts and entities as may be approved in advance by the “Employer”. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services. In the event that any Sub-Consultants are found by the “Employer” to be incompetent or incapable in discharging assigned duties, the “Employer” may request the Consultant to provide a replacement, with qualifications and experience acceptable to the “Employer”, or to resume the performance of the Services itself.
- (c) Any other action that may be specified in the SC.

### 3.8 Reporting Obligations

The Consultant shall submit to the “Employer” the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix. Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.

### 3.9 Documents Prepared by the Consultant to be the Property of the “Employer”

All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the “Employer” under this Contract shall become and remain the property of the “Employer”, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the “Employer”, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, but shall not use anywhere, without taking permission, in writing, from the Employer and the Employer reserves right to grant or deny any such request.. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the “Employer”’s prior written approval to such agreements, and the “Employer” shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

### 3.10 Equipment, Vehicles and Materials Furnished by the “Employer”

Equipment, vehicles and materials made available to the Consultant by the “Employer”, or purchased by the Consultant wholly or partly with funds provided by the “Employer”, shall be the property of the “Employer” and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the “Employer” an inventory of such equipment, vehicles and materials and shall dispose of such equipment and materials in accordance with the “Employer”’s instructions. While in possession of such equipment, vehicles

and materials, the Consultant, unless otherwise instructed by the “Employer” in writing, shall insure them at the expense of the “Employer” in an amount equal to their full replacement value. Equipment or materials brought into the Government’s country by the Consultant and the Personnel and used either for the Project or personal use shall remain the property of the Consultant or the Personnel concerned, as applicable.

#### ***4. CONSULTANTS’ PERSONNEL AND SUB-CONSULTANTS***

##### **4.1 General**

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

##### **4.2 Description of Personnel**

(a) The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant’s Key Personnel are as per the consultant’s proposal and are described in Appendix C. If any of the Key Personnel has already been approved by the “Employer”, his/her name is listed as well.

(b) If required to comply with the provisions of Clause GC 3.1.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix C may be made by the Consultant by written notice to the “Employer”, provided (i) that such adjustments shall not alter the originally estimated period of engagement of 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 GC 6.1(b) of this Contract. Any other such adjustments shall only be made with the “Employer”’s written approval.

(c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in Appendix C may be increased by agreement in writing between the “Employer” and the Consultant. In case where payments under this Contract exceed the ceilings set forth in Clause GC 6.1(b) of this Contract, this will be explicitly mentioned in the agreement.

##### **4.3 Approval of Personnel**

The Key Personnel and Sub-Consultants listed by title as well as by name in Appendix C are hereby approved by the “Employer”. In respect of other Personnel which the Consultant proposes to use in the carrying out of the Services, the Consultant shall submit to the “Employer” for review and approval a copy of their Curricula Vitae (CVs). If the “Employer” does not object in writing (stating the reasons for the objection) within twenty-one (21) days from the date of receipt of such CVs, such Personnel shall be deemed to have been approved by the “Employer”.

##### **4.4 Removal and/ or Replacement of Personnel**

(a) If, for any reason beyond the reasonable control of the Consultant, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications.

(b) If the “Employer” (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant may, at the “Employer”’s written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the “Employer”.

(c) The Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/ or replacement.

#### 4.5 Resident Project Manager

If required by the SC, the Consultant shall ensure that at all times during the Consultant's performance of the Services a resident project manager, acceptable to the "Employer", shall take charge of the performance of such Services.

### **5. OBLIGATIONS OF THE "EMPLOYER"**

#### 5.1 Assistance and Exemptions

Unless otherwise specified in the SC, the "Employer" shall use its best efforts to ensure that the Government shall:

- (a) Provide the Consultant, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services.
- (b) Arrange for the Foreign Personnel to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in India.
- (c) Issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.
- (d) Provide to the Consultant, Sub-Consultants and Personnel any such other assistance as may be specified in the SC.

#### 5.2 Change in the Applicable Law Related to Taxes and Duties

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties, which are directly payable by the consultant for providing the services i.e. service tax or any such applicable tax from time to time, 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 GC 6.1(b).

#### 5.3 Services, Facilities and Property of the "Employer"

- (a) The "Employer" shall make available to the Consultant and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix E at the times and in the manner specified in said Appendix E.
- (b) In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Appendix E, the Parties shall agree on any time extension that it may be appropriate to grant to the Consultant for the performance of the Services.

#### 5.4 Payment

In consideration of the Services performed by the Consultant under this Contract, the "Employer" shall make to the Consultant such payments and in such manner as is provided by Clause GC 6 of this Contract.

#### 5.5 Counterpart Personnel

- (a) If necessary, the "Employer" shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the "Employer" with the Consultant's advice, if specified in Appendix E.
- (b) Professional and support counterpart personnel, excluding "Employer"'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 “Employer” shall not unreasonably refuse to act upon such request.

## **6. PAYMENTS TO THE CONSULTANT**

### **6.1 Total Cost of the Services**

(a) The total cost of the Services payable is set forth in Appendix D as per the consultant’s proposal to the Employer and as negotiated thereafter.

(b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the amount specified in Appendix-D.

(c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to any of the Clauses GC 4.2 (c) or 5.2 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 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

### **6.2 Currency of Payment**

All payments shall be made in Indian Rupees.[In case the payment is to be made in the currency other than Indian Rupees, the same shall be mentioned in stead of Indian Rupees]

### **6.3 Terms of Payment**

The payments in respect of the Services shall be made as follows:

(a) 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 milestones achieved and as per the specified percentage as per SC 13.

(b) Once the milestone is completed, the consultant shall submit the requisite deliverables as specified in this agreement. The Employer shall release the requisite payment upon acceptance of the deliverables. However, if the Employee fails to accept the deliverables within 30 days of receipt of it, the Employer shall release the payment to the consultant without further delay.

(c) Final Payment : The final payment as specified in SC 13 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 “Employer”. The Services shall be deemed completed and finally accepted by the “Employer” and the final report and final statement shall be deemed approved by the “Employer” as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the “Employer” unless the “Employer”, 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 “Employer” 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 “Employer” within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the “Employer” for reimbursement must be made within twelve (12) calendar months after receipt by the “Employer” of a final report and a final statement approved by the “Employer” in accordance with the above.

(d) For the purpose of payment under Clause 6.3 (b) above, acceptance means; acceptance of the deliverables by the Employer after submission by the consultant and the consultant has made presentation to the CMC / Employer (Mention this if

presentation is required) with / without modifications to be communicated in writing by the Employer to the consultant.

(e) If the deliverables submitted by the consultant are not acceptable to the Employer / CMC, reasons for such non-acceptance should be recorded in writing; the Employer shall not release the payment due to the consultant. This is without prejudicing the Employer's right to levy any liquidated damages under clause 9. In such case, the payment will be released to the consultant only after it re-submits the deliverable and which is accepted by the Employer.

(f) All payments under this Contract shall be made to the accounts of the Consultant specified in the SC.

(g) 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 Employer to the consultant in writing and the consultant has made necessary changes as per the comments / suggestions of the Employer communicated to the Consultant.

(h) In case of early termination of the agreement, 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 worked during this period. 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 regards 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.

## **7. FAIRNESS AND GOOD FAITH**

### **7.1 Good Faith**

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.

### **7.2 Operation of the Contract**

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

## **8. SETTLEMENT OF DISPUTES**

### **8.1 Amicable Settlement**

Performance of the contract is governed by the terms & conditions of the contract, in case of dispute arises between the parties regarding any matter under the contract, either Party of the contract may send a written Notice of Dispute to the other party. The Party receiving the Notice of Dispute will consider the Notice and respond to it in writing within 30 days after receipt. If that party fails to respond within 30 days, or the dispute cannot be amicably settled within 60 days following the response of that party, clause GC 8.2 shall become applicable.

## 8.2 Arbitration

In the case of dispute arising between the Employer and the Consultant, which has not been settled amicably, any party can refer the dispute for Arbitration under the Arbitration Act, 1996. Such disputes shall be referred to an Arbitral Tribunal consisting of 3 (three) arbitrators, one each to be appointed by the Employer and the Consultant, the third arbitrator shall be chosen by the two arbitrators so appointed by the parties and shall act as Presiding Arbitrator. In case of failure of the two arbitrators, appointed by the parties to reach a consensus regarding the appointment of the third arbitrator within a period of 30 days from the date of appointment of the two arbitrators, the Presiding arbitrator shall be appointed by the Secretary of the Ministry / Department. The Indian Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereof, shall apply to these arbitration proceedings.

## 8.3 Place of Arbitration

Arbitration proceedings shall be held in India at the place indicated in SC and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.

## 8.4 Arbitration Award

The decision of the majority of arbitrators shall be final and binding upon both parties. The expenses of the arbitrators as determined by the arbitrators shall be shared equally by the Employer and the Consultant. However, the expenses incurred by each party in connection with the preparation, presentation shall be borne by the party itself. All arbitration awards shall be in writing and shall state the reasons for the award.

## **9. LIQUIDATED DAMAGES**

### 9.1 General

The parties hereby agrees 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 agrees to pay such liquidated damages, as defined hereunder as per the provisions of this agreement.

### 9.2 Amount of Liquidated damages

The amount of liquidated damages under this agreement shall not exceed 2 % of the total value of the contract as specified in Appendix D.

### 9.3 Applicable Circumstances

The liquidated damages shall be applicable under following circumstances:

- (a) If the deliverables are not submitted as per schedule as specified in SC 13, the consultant may be liable to pay 1% of the total cost of the services for delay of each week or part thereof.
- (b) If the deliverables are not acceptable to the Employer as mentioned in Clause 6.3 (f), the Employer may levy an amount equal to [ ]% of total cost of the services or as may be determined by the Employer at that time as liquidated damages.
- (c) If the agreement is terminated pursuant to Clause 2.9.1 (a) to (f), the employer may levy liquidated damages of an amount equal to [ ]% of total cost of the services or as may be determined by the Employer at the time of termination.

### III. SPECIAL CONDITIONS OF CONTRACT

SC Clause	Ref. of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract																				
1	1.5	The addresses are: 1. "Employer" :  Attention : Facsimile : +91  2. Consultant : Attention : Facsimile :																				
2	1.7	The Authorized Representatives are: For the "Employer": For the Consultant:																				
3	2.2	The time period shall be [insert time period, e.g.: four months].																				
4	2.3	The time period shall be [insert time period, e.g.: four months].																				
5	2.4	The time period shall be [insert time period, e.g.: twelve months].																				
6	3.4	Limitation of the Consultants' Liability towards the "Employer": Notwithstanding anything to the contrary contained in the RFP and draft contract (including GCC, SC), in no event will the Consultant be liable to the Employer or any of its agencies/ associates, whether the claim be in tort, contract, liquidated damages or other wise; for any amount in excess of 100% of the total professional fee payable for this Assignment/ job.																				
8	4.6	{The person designated as resident project manager in Appendix C shall serve in that capacity, as specified in Clause GC 4.6.} Note: If there is no such manager, delete this Clause SC 4.6.																				
9	5.1	Note: List here any changes or additions to Clause GC 5.1. If there are no such changes or additions, delete this Clause SC 5.1.																				
10	6.1 (b)	The ceiling in local currency is: [insert amount and currency]																				
11	6.3	[Delete whichever is not applicable]  Phase 1: <table border="1" data-bbox="597 1562 1382 1871"> <thead> <tr> <th>Sr. No.</th> <th>Milestone (Deliverables)</th> <th>Time period for submission</th> <th>Payment (as % of the total service cost)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>2.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>3.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>4.</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Sr. No.	Milestone (Deliverables)	Time period for submission	Payment (as % of the total service cost)	1.				2.				3.				4.			
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12	8.3	The Arbitration proceedings shall take place in Kerala, India.																				

## **IV. APPENDICES**

### **1. APPENDIX A – DESCRIPTION OF SERVICES**

Note: This Appendix will include the final Terms of Reference worked out by the “Employer” and the Consultants during technical negotiations, dates for completion of various tasks, place of performance for different tasks/activities, specific tasks/activities/outcome to be reviewed, tested and approved by “Employer”, etc.

### **2. APPENDIX B - REPORTING REQUIREMENTS**

Note: List format, frequency, and contents of reports; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here “Not applicable.”

### **3. APPENDIX C – STAFFING SCHEDULE**

(Include here the agreed /negotiated staffing schedule including the engagement of sub-contractors, if any)

### **4. APPENDIX D – TOTAL COST OF SERVICES**

(Include here the rates quoted in the financial proposal or the negotiated rates, whichever is applicable)

### **5. APPENDIX E - DUTIES OF THE “EMPLOYER”**

(Include here the list of Services, facilities and property to be made available to the Consultant by the “Employer”).