

SELECTION OF CONSULTANT FOR PREPARATION OF DPR FOR INTERNATIONAL CARGO HUB AT HALDIA, WEST BENGAL

REQUEST FOR PROPOSAL (RFP) DOCUMENT

July, 2014

Owner: HFTWPL

Contents

SECTION – 1: INFORMATION TO CONSULTANTS	4
1. INTRODUCTION	4
2. DOCUMENT COMPRISING THE RFP	5
3. PREPARATION OF PROPOSAL.....	5
4. TECHNICAL PROPOSAL	6
5. FINANCIAL PROPOSAL.....	7
6. BID SECURITY.....	7
7. FINANCIAL RANKING OF BIDS	8
8. SELECTION OF SUCCESSFUL BIDDER	8
9. SUBMISSION, RECEIPT AND OPENING OF PROPOSALS.....	8
10. AWARD OF CONTRACT	9
11. CONFIDENTIALITY	10
12. DATA SHEET	10
SECTION- 2: PROPOSAL - STANDARD FORMS	11
Form 2A: Proposal Covering Letter.....	11
Form 2B: Project Experience Format.....	13
Form 2C: Curriculum Vitae (CV) for Proposed Professional Staff.....	14
Form 2D: PRICE BID.....	16
SECTION – 3: TERMS OF REFERENCE	17
1. Background	17
2. Objective	17
3. Scope of Work.....	17
3.1 Part I: Project Screening Report (PSR).....	17
(A) Demand Assessment Study	17
(B) Demand projections:	18
(C) Identifying suitable project infrastructure	18
(D) Project Risk Assessment	19
(E) Business Planning.....	19
3.2 Part II: Project Master Plan & Detailed Project Report (DPR).....	20
4. Exclusions	20
5. Schedule for Completion.....	20
6. Payment Terms / Schedule	21
SECTION-4: AGREEMENT FOR PREPARATION OF DETAILED PROJECT REPORT	22
1. GENERAL.....	22

2.	COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT	25
3.	OBLIGATIONS OF THE CONSULTANT	28
4.	CONFIDENTIALITY	31
5.	LIABILITY OF THE CONSULTANT	31
6.	CONSULTANT’S PERSONNEL AND SUB-CONSULTANTS	34
7.	OBLIGATIONS OF THE OWNER	35
8.	PAYMENT TO THE CONSULTANT.....	35
9.	LIQUIDATED DAMAGES AND PENALTIES	36
10.	FAIRNESS AND GOOD FAITH.....	37
11.	SETTLEMENT OF DISPUTES	37

SECTION – 1: INFORMATION TO CONSULTANTS

1. INTRODUCTION

- 1.1 Haldia Free Trade Warehousing Private Limited (HFTWPL) intends to engage services of a Consultant for Preparation of Detailed Project Report for International Cargo Hub at Haldia in the state of West Bengal which is developed by the HFTWPL.
- 1.2 HFTWPL has obtained allotment of land measuring approx 200 acres from Haldia Development Authority (HDA) for a period of 90 years, which is proposed to be developed as an International Cargo Hub (“Project”).
- 1.3 HFTWPL is a special purpose company incorporated under [Indian] Companies Act, 1956 for the implementation of Haldia Project. HFTWPL is a wholly owned subsidiary of M/s Free Trade Warehousing Private Limited (“FTWPL”), which is a joint venture company incorporated under Companies Act, 1956, between MMTC Limited and IL&FS group for jointly promoting Free Trade and Warehousing Zones in India.
- 1.4 The principal objective of the study is to develop a bankable Detailed Project Report (DPR) for setting up International Cargo Hub at Haldia, West Bengal. The broad scope includes assessment of demand-supply gap and prospects for warehousing facility in Haldia based on the current and projected cargo movements through Haldia/Kolkata, existing and potential growth of the various production and consumption centres within the potential Influence Zone (to be defined in the study based on demand-supply dynamics in the region)
- 1.5 The Consultant will be selected under the procedures described in this RFP.
- 1.6 The consultants are invited to submit Technical & Financial Proposal, (the Proposal) for consulting services in single stage two envelope process (**Bidding Process**) for the Assignment named in the Data Sheet. The Successful Bidder will be selected through a Quality and Cost Based Selection (QCBS) method. Haldia Free Trade Warehousing Private Limited (HFTWPL) (the **Owner**) reserves the right to accept or reject any or all proposals which are found to be not meeting the stated and implied requirements as per the terms of this tender document.
- 1.7 It is the Owner’s policy to require that the consultants observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the Owner:
 - (A) Defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “Corrupt practice” means the offering, giving , receiving, or soliciting of anything of value to influence the action of an official in the selection process or in contract execution; and

(ii) “fraudulent practice” means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Owner, and includes collusive practices among consultants (prior to or after submission of proposals) designed to establish prices at artificial, non-competitive levels and to deprive the Owner of the benefits of free and open competition.

(B) will declare a firm/consultant(s) ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm/consultant(s) has engaged in corrupt or fraudulent practices in competing for, in executing, a contract.

2. DOCUMENT COMPRISING THE RFP

2.1 The RFP includes the following documents:

Section - 1	:	Information to Consultants
Section - 2	:	Standard Forms
Section - 3	:	Terms of Reference
Section - 4	:	Standard Form of contract

2.2 Consultants may request a clarification of any of the RFP documents upto 5 (five) working days before the Proposal submission date. Any request for clarification must be sent in to the Owner’s address indicated in the Data Sheet preferably by email. The Owner will respond by electronic mail to such requests.

2.3 At any time before the submission of Proposals, the Owner may, for any reason, whether at its own initiative or in response to a clarification requested by any prospective bidder, modify the RFP documents by amendment. Any amendment shall be issued in writing through corrigendum, which shall be posted on the websites of MMTC Limited and IIDC Limited. The Owner may at its discretion extend the deadline for submission of Proposal.

3. PREPARATION OF PROPOSAL

3.1 Consultants are requested to submit the Proposal written in the language(s) specified in the Data Sheet.

4. TECHNICAL PROPOSAL

4.1 The Technical Proposal by the Bidders will be evaluated based on the following criteria. The total Technical Score will be calculated for each bidder based on the said criteria. The bidders meeting the Minimum Technical Score for eligibility prescribed herein shall alone be eligible for Financial Evaluation.

Sl#	Criteria	Scoring Pattern	Maximum Score	Proof to be submitted
1	Project Experience	5 marks for each completed Consultancy Project in Port, Rail/Road Logistic infrastructure such as CFS with a project cost exceeding Rs 100 Cr. The Scope of Work in such projects shall include Techno-Commercial Feasibility Studies. The Client for each such project shall be a Company registered under Companies Act 1956 OR a Central/ State Government Agency.	30	Completion Certificate from Client with the project cost
2	Team Leader (Key Personnel)	MBA/Equivalent with 15 years experience. To have served as Team Lead for atleast one Project of similar nature claimed for experience in Sl no. 1 (CV Should indicate Client, Project Name, Position Held, Duration of the assignment)	10	CV should be certified from Head of Organization of the Bidder OR Authorised Signatory
3	Logistics Expert (Key Personnel)	MBA with 10 years experience in Logistics sector such as Marine/Rail logistics (CV Should indicate Client, Project Name, Position Held, Duration of the assignment)	10	-DO-
4	East India Expert (Key Personnel)	MBA with 10 years experience in Infrastructure development in Eastern India. Should have served as team member in atleast 2 infrastructure projects in West Bengal/NE states during the last 10 years. (CV Should indicate the Project Name, State, Client and Duration)	10	-DO-
5	Engineering/ Planning Expert	Graduate/Post Graduate in Civil Engineering or Masters in Planning with 12 years Experience in project design, Planning and Construction. Should have handled project design/planning for at least one logistic park/Port/CFS with an area not less than 100 acres. (CV Shall indicate Project Name, Client, Project Area, Position held)	10	- DO-

- 4.2 The Project Experience shall be given in Form 2A
- 4.3 The CV of the professional staff shall be given in Form 2B
- 4.4 TOTAL MAXIMUM TECHNICAL SCORE : 70
- 4.5 MINIMUM TECHNICAL SCORE for ELIGIBILITY: 50
- 4.6 Technical Evaluation shall be completed within 30 days of opening of Bids.

5. FINANCIAL PROPOSAL

- 5.1 Financial Bids of only those bidders whose Technical Score is more than or equal to 50 shall be opened. Financial Bids of other bidders will be returned unopened.
- 5.2 In preparing the Financial Proposal, consultants are expected to take into account the requirements and conditions of the RFP documents. The Financial Proposal should follow Standard Forms (Section- 2, Form 2D).
- 5.3 The Financial Proposal should be in Indian Rupees, inclusive of all applicable taxes, duties, fees, levies; for the entire scope of the assignment under this RFP.

6. BID SECURITY

- 6.1 The Bidder shall furnish as part of its technical proposal, a bid security of Rs. 2 Lakhs (Rupees Two Lakhs only) in the form of a demand draft issued by one of the Nationalised/ Scheduled Banks in India in favour of the Owner payable at New Delhi (the "Bid Security"). The Bid Security of unsuccessful Bidders shall be returned on selection of the successful Bidder or on Owner annulling the bidding process except in case of the highest ranked (in terms hereof). The Selected Bidder's Bid Security shall be returned, upon the Bidder signing the work order.
- 6.2 Any Bid not accompanied by the Bid Security shall be rejected by the Owner as non-responsive.
- 6.3 The Owner shall not be liable to pay any interest on the Bid Security and the same shall be interest free
- 6.4 The Bidder, by submitting its Application pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the Owner's any other right or remedy hereunder or in law or otherwise, the Bid Security shall be forfeited and appropriated by the Owner as the mutually agreed pre-estimated compensation and damage payable to the Owner for, inter alia, the time, cost and effort of the Owner in regard to the RFP including the consideration and evaluation of the Proposal under the following conditions:
 - (A) If an Bidder engages in any of the Prohibited Practices specified in this RFP;
 - (B) If an Bidder withdraws its Proposal during the period of its validity as specified in this RFP and as extended by the Bidder from time to time;

- (C) In the case of a Selected Bidder, if the Bidder fails to sign the work order or commence the Contract as specified herein respectively; or
- (D) If the Bidder is found to have a Conflict of Interest as specified in this RFP.
- (E) If the Bidder misrepresents any information/qualification criteria or otherwise as required to be submitted/fulfilled in terms hereof

7. FINANCIAL RANKING OF BIDS

- 7.1 The Ranking of Financial Bids shall be done as Follows
- 7.2 The Lowest Financial Proposal (L1) received shall be assigned 100 Marks
- 7.3 Other Bidders will be ranked inversely proportional to their quotes in relation to the L1 quote. Eg If the L1 quote is Rs 1000/-. The Financial Score of a bidder who has quoted Rs 1200 shall be 83 ($1000/1200*100$) (rounded off to the nearest whole number)

8. SELECTION OF SUCCESSFUL BIDDER

- 8.1 The Technical Score shall be given a weightage of 70% and Financial Score will be given a weightage of 30%.
- 8.2 Total Bid Score (TBS) = Technical Score * 0.70+ Financial Score * 0.30
(Eg. If a bidder has a Technical Score of 60 and a Financial Score of 83 the Total Bid Score shall be - $TBS = 60 * 0.70 + 83 * 0.30 = 66.9$)

9. SUBMISSION, RECEIPT AND OPENING OF PROPOSALS

- 9.1 The proposal shall be submitted in the formats given in Section 2. The Proposal shall be prepared in indelible ink. Any inter-lineation or overwriting, or corrections must be initialed by the Authorised Signatory.
- 9.2 An authorized representative of the firm initials all pages of the Proposal. The representative's authorization is confirmed by a notarized copy of the written Power of Attorney (PoA) issued by the Board of Directors/ Competent Owner of the bidder accompanying the Proposal.
- 9.3 The completed Proposal must be delivered at the submission address on or before the time and date stated in the Data Sheet. Any Proposal received after the closing time for submission of proposal shall be returned unopened.
- 9.4 Technical Proposal & Financial proposal shall be kept in separate sealed envelopes with clear identification as "TECHNICAL PROPOSAL" and "FINANCIAL PROPOSAL" super scribed on each Envelope. Any envelope found not sealed shall not be considered for evaluation. Both Technical and Financial Proposals shall then be kept in a Single

Envelope (Outer Envelope). The bidders shall super scribe the Outer Envelope "BIDS FOR SELECTION OF CONSULTANT FOR HALDIA INTERNATIONAL CARGO HUB PROJECT", and also write the Full Address of the Bidder. If the bids are received without the said marking and the same results in wrong handling at the Owner's office prior to opening of the Bid, Owner shall not be responsible.

- 9.5 After the deadline for submission of proposal the Technical Proposal shall be opened immediately by the evaluation committee. Bidders may at their own discretion choose to be present through their authorized representatives at the time of Proposal opening.
- 9.6 The proposals submitted by the consultants shall be valid for a period specified in the data sheet.

Opening and Evaluation of Financial Proposals

- 9.7 After the Technical Evaluation, Bidders whose technical score are more than or equal to the Minimum Technical Score for Eligibility (Technically Qualified Bidders- TQB) shall be intimated appropriately by the Owner. Financial Bids of other bidders shall be returned unopened.
- 9.8 The Financial Proposals shall be opened in the presence of TQB representatives who choose to attend.
- 9.9 The evaluation committee will carry out ranking of the bids subsequently as per the methodology specified in this RFP. The Successful Bidder will be intimated in approximately 30 days of opening the Financial Proposals.
- 9.10 Bid Security of unsuccessful bidders shall be returned within 30 days of opening of Financial Proposal.

10. AWARD OF CONTRACT

- 10.1 The Owner and the Successful Bidder (Consultant) shall enter into an agreement provided in Section-4 of this RFP within 7 days of the issuance of Letter of Award (LoA).
- 10.2 The Consultant shall commence the Assignment from the Effective date.
- 10.3 The Owner reserves the right to accept or reject any or all the proposals at any stage without assigning any reason whatsoever and without any liability, explicit or implied, as a consequence of the same.

11. CONFIDENTIALITY

11.1 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 winning firm/consultant has been notified that it has been awarded the contract.

12. DATA SHEET

Information to Consultants

Clause Reference	Details	Information
1.1	The Name of the Assignment	Preparation of Detailed Project Report for International Cargo Hub at Haldia, West Bengal
2.1	Clarifications may be requested on or before the bid due date to	Haldia Free Trade Warehousing Pvt. Ltd. 2 nd floor, Niryat Bhawan Rao Tula Ram Marg, New Delhi -110057 Email: dileepkumar.chingapurath@ifcindia.com
3.1	Proposals should be submitted in the following language(s)	English.
5.3	The proposal submission address is	Haldia Free Trade Warehousing Pvt. Ltd. 2 nd floor, Niryat Bhawan Rao Tula Ram Marg, New Delhi -110057 Email: dileepkumar.chingapurath@ifcindia.com
5.3	Proposals must be submitted no later than the following date and time	Date: July 28, 2014 Time: 15:00 hrs.
5.6	Validity of the Proposal	Proposals must remain valid for 90 days after the submission date

SECTION- 2: PROPOSAL - STANDARD FORMS**Form 2A: Proposal Covering Letter.**

To
Director
HFTWPL

Sub: SELECTION OF CONSULTANT FOR PREPARATION OF DPR FOR
INTERNATIONAL CARGO HUB AT HALDIA, WEST BENGAL

Dear Sir,

With reference to your RFP document dated *****, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.

- 1 I/ We acknowledge that the Owner will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Consultant for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
- 2 This statement is made for the express purpose of our selection as Consultant for the aforesaid Project.
- 3 I/ We shall make available to the Owner any additional information it may find necessary or require to supplement or authenticate the Bid.
- 4 I/ We acknowledge the right of the Owner to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
- 5 I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial Owner or a judicial pronouncement or arbitration award, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.
- 6 I/ We declare that:
 - (A) I/ We have examined and have no reservations to the RFP Documents, including any Corrigendum issued by the Owner; and
 - (B) I/ We do not have any conflict of interest in accordance with provisions of the RFP document; and

- (C) I/ We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in the RFP document
- (D) the undertakings given by us along with the Proposal in response to the RFP for the Project were true and correct as on the date of making the Proposal and are also true and correct as on the Proposal Due Date and I/we shall continue to abide by them.
- 7 I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Proposal that you may receive nor to invite the Firms/Consultant(s) to submit proposal for the Project, without incurring any liability to the Bidders, in accordance with the RFP document.
- 8 I/ We have studied all the RFP Documents carefully.
- 9 I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
- 10 I/ We shall keep this offer valid for 90 (ninety) days from the Bid Due Date specified in the RFP.

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

Yours faithfully,

Authorized Signature:
Name and Title of Signatory:
Name of the Firm/Consultant:

Address:

Form 2B: Project Experience Format

- **PROVIDE PROJECTS DETAILS WITH A COPY OF PROOF OF EXPERIENCE (COMPLETION CERTIFICATE/MANDATE LETTER/ANY OTHER SUPPORTING DOCUMENT)**
- **COMPLETED PROJECTS LAST FIVE YEARS WILL ONLY BE CONSIDERED.**

Assignment name:	Approx. value of the contract (in INR):
Country: Location within country:	Duration of assignment (months):
Name of Client:	Total No. of staff-months of the assignment:
Address:	Approx. value of the services provided by your firm under the contract (in INR):
Start date (month/year): Completion date (month/year):	No. of professional staff-months provided by associated Consultants:
Name of lead partner:	Name of senior professional staff of your firm involved and functions performed (indicate most significant profiles such as Project Director/Coordinator, Team Leader):
Name of associated Consultants, if any:	
Narrative description of Project with project cost:	
Description of actual services provided by your staff within the assignment:	

Firm's Name:

Authorized Signature:

Form 2C: Curriculum Vitae (CV) for Proposed Professional Staff

1. **Proposed Position** [*only one candidate shall be nominated for each position*]: _____

2. **Name of Firm** [*Insert name of firm proposing the staff*]: _____

3. **Name of Staff** [*Insert full name*]: _____

4. **Date of Birth:** _____ **Nationality:** _____

5. **Education** [*Indicate college/university and other specialized education of staff member, giving names of institutions, qualifications obtained, and date*]: _____

6. **Membership of Professional Organisations:** _____

7. **Training & Publications** [*Indicate significant training since degrees under 5 - Education were obtained*]: _____

8. **Countries of Work Experience:** [*List countries where staff has worked in the last ten years*]: _____

9. **Languages** [*For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing*]: _____

10. **Employment Record** [*Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.*]:

Employer: _____ **From [Year]:** _____ **To [Year]:** _____
Positions held: _____

<p>11. Detailed Tasks Assigned</p> <p><i>[List all tasks to be performed under this assignment]</i></p>	<p>12. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</p> <p><i>[Among the assignments in which the Staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.]</i></p> <p>Name of assignment or project: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Client: _____</p> <p>Main project features: _____</p> <p>Positions held: _____</p> <p>Activities performed: _____</p>
---	--

13. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

_____ Date: _____
(Signature of staff member) Day/Month/Year

Full name of the staff:-----

Signature of Authorized representative of the staff-----Date-----
(Day/Month/Year)

Full name of authorized representative: _____

Form 2D: PRICE BID

Sl. No.	Name of Activity	FEE Amounts in Rs.	
		In Figures	In Words
1.	Consultancy fee for DPR Preparation		
	Local Taxes & Duties @ Taxes payable on fees		
	Total		

SECTION – 3: TERMS OF REFERENCE

1. Background

- 1.1** The Haldia Free Trade Warehousing Private Limited (HFTWPL) is a special purpose company incorporated under [Indian] Companies Act, 1956 for the implementation of ICH, Haldia Project. HFTWPL is a wholly owned subsidiary of M/s Free Trade Warehousing Private Limited (“FTWPL”), which is a joint venture company incorporated under Companies Act, 1956, between Infrastructure Leasing & Financial Services Limited and MMTC Limited, a Government of India enterprise; for jointly promoting Free Trade and Warehousing Zones in India.
- 1.2** HFTWPL has obtained allotment of land admeasuring approx 200 acres from Haldia Development Owner (HDA) for a period of 90 years, which is proposed to be developed as an International Cargo Hub (“Project”).

2. Objective

- 2.1** The principal objective of the study is to prepare a Detailed Project Report (DPR) for setting up International Cargo Hub at Haldia, West Bengal. The broad scope includes assessment of demand-supply gap and prospects for warehousing facility in Haldia based on the current and projected cargo movements through Haldia/Kolkata, existing and potential growth of the various production and consumption centres within the Influence Zone (100 Km radius around Haldia), availability of other similar facilities in the Influence Zone (if any) including other value added logistic activities such as blending, packing & repacking, labeling etc. The Scope of work has been divided in to two parts. The detailed scope of work for both the parts is provided in Sl. No. 3.

3. Scope of Work

3.1 Part I: Project Screening Report (PSR)

(A) Demand Assessment Study

- (i) Identification of major existing and upcoming industry clusters especially major production centres, ICDs / CFSs, shipping lines, logistic companies, container train operators and industries.
- (ii) Identification of commodities and products manufactured, domestic and export volume, distribution of cargo by movement type, commodity wise monthly traffic (container in terms of number of TEUs, and Breakbulk & Bulk in MTs) from/to the gateway ports from the region by road and identification of major routes followed by transporters.
- (iii) Identification of current gaps in storage infrastructure vis-à-vis existing cargo volume Study should include the views of stakeholders like Shipping

lines, Logistic companies, major exporter/importer and existing industries in the catchment.

- (iv) Assessment of value added logistic services that have a potential to house in the proposed industrial hub based on the demand assessment of the region.
- (v) Sample case study showcasing an international cargo hub in Asian countries to compare the infrastructure support and commercial benefits being offered by such cargo hubs and related success stories of the clients.
- (vi) List of top ten Indian Company that can be prospective client for the said project.

(B) Demand projections:

- (i) Demand for warehouse/ logistic or related industrial activities which are potentially suitable for the International Cargo Hub, Haldia. The consultant is expected to use suitable secondary data of demand, identify appropriate correlation factors influencing such demand, make projections for demand based on such correlation factors. The consultant shall record rationale for assumptions made by them and the percentage error expected while making demand projections based on past data.
- (ii) Secondary data shall be taken from authorized sources and the source of such data needs to be specified in the DPR.

(C) Identifying suitable project infrastructure

- (i) Identify most suitable business plan for the International Cargo Hub with an objective to maximize the return on investment to the project owners while complying with applicable regulatory requirements.
- (ii) Identify the various common infrastructure components for the Project based on target commodities identified in the demand assessment
- (iii) Proposed development time schedules (project phasing) for the infrastructure components based on the demand projections
- (iv) Block cost estimates for infrastructure development in each of the proposed project phases
- (v) Indicative layout drawings for the proposed project indicating all the proposed phases.
- (vi) List of statutory/regulatory approvals required for the Project, Details of Authorities issuing such approvals and Summary of key requirements for each of the identified statutory/regulatory approvals.

(D) Project Risk Assessment

- (i) Identify key external and internal risks for the project
- (ii) Identify the risk variables and the range of variability for each of the key external and internal risks
- (iii) Assess the impact of risk on the project arising from variability of the key risk variables.

(E) Business Planning

Based on the market potential analysis and risk assessment, the Consultant shall suggest a comprehensive Light Asset Business Model for the Owner broadly containing the followings:

- (i) Light Asset business Model for the Project
 - Potential Client Sets and their stated & implied requirement
 - Potential Competitors to the Project and their business model, strengths and weaknesses
 - Infrastructure to be developed by the Owner (HFTWPL)
 - Services to be offered by the Owner
 - Revenue Streams to the Owner (HFTWPL)
 - Cost streams to the Owner
- (ii) Strategy for project development and marketing: Indicate Suitable Strategies for client acquisition, Fund mobilization and Project Phasing.
- (iii) Capital structuring of the project: Indicate appropriate debt: equity structure and potential financing strategy.
- (iv) Source(s) of Debt: Identify potential sources of Debt suitable for the project, detail the salient terms of such debt and suggest strategies to meet the prescribed standards.
- (v) Financial projections (balance sheets, cash flows, P&L statements, PIRR, capex statements) for 15 years post Commissioning of Phase 1 (If project is suggested to be developed in multiple phases)
- (vi) Sensitivity analysis of the project on key parameters(risk variables identified in Risk Analysis based on the relevant range of variability)
- (vii) Identification of potential risk mitigation strategies

3.2 Part II: Project Master Plan & Detailed Project Report (DPR)

The detailed project report shall incorporate the details of the draft report including suggestions and modifications in the same and the following. The DPR will be used for the purpose of debt financing from Banks/FIs and therefore the consultant's responsibility shall include making the DPR comply with requirements of the lenders.

- (A) A comprehensive Master Plan for the Project based on the optimum value to the identified demand.
 - (i) Land Use Plan
 - (ii) Positioning of Common User Infrastructure
 - (iii) Sizing & Technical Specs for Common User Infrastructure to be developed by Owner.
 - (iv) Positioning of land/built up area to be offered to clients on assignment
- (B) Detailed engineering designs and drawing of all the components to be developed/constructed by the Owner in the project. If any components are suggested to be built through Co-Developers, the Consultant may give only the salient technical specs and expected block cost estimate. For the components suggested to be built by clients in land parcels to be assigned, the Consultant need not provide any cost estimate.
- (C) Detailed Bill of Quantities and schedule of cost based on the engineering details for the components to be constructed/developed by Owner.
- (D) Assessment of statutory project approvals required for the implementation of the project and collection of all relevant data for each statutory approval.
- (E) Final capital structuring and detailed financial analysis (If total cost in DPR varies with the estimate made in PSR)

4. Exclusions

- (A) Topographical survey details shall be provided by the Owner
- (B) Soil investigation report for the engineering design of the structures shall be provided by the Owner

5. Schedule for Completion

The time frame for completion of this work is as detailed below:

- (A) Part I: Project Screening Report
 - (i) Concept report : 2 weeks from the effective date
 - (ii) Draft Screening Report (DSR): 8 weeks after the submission of comments on the concept report
 - (iii) Final Screening report (FSR) : 2 weeks after the comments on the draft report

(B) Part II: Detailed Project Report (After FSR approved by HFTWPL)

- (i) Engineering detailing and drawing: 4 weeks
- (ii) BoQ and Cost estimates: 2 weeks after approval of drawings
- (iii) DPR: 2 weeks after approval of BoQ and Estimates

6. Payment Terms / Schedule

The Following is the terms of payment for this assignment. All the payments shall be made within 30 (thirty) days of receipt of invoices/ achieving the project milestones whichever is later.

- A. 10% of the contract value against submission of Concept Report
- B. 15% of the contract value against submission of Draft Report
- C. 30% of the contract value against submission of Final Report
- D. 20% of the contract value against submission of Engineering detailing and drawings
- E. 20% of the contract value against approval of Final Report by the Board of Directors
- F. 5% on Financial Closure of the Project.

SECTION-4: AGREEMENT FOR PREPARATION OF DETAILED PROJECT REPORT

AGREEMENT No. _____

This AGREEMENT (hereinafter called the “**Agreement**”) is made on the _____ day of the month of _____ 2014, between, on the one hand, the _____ (hereinafter called the “**Owner**” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, _____ (hereinafter called the “**Consultant**” which expression shall include their respective successors and permitted assigns).

WHEREAS

- (A) The Owner vide its Request for Proposal for Preparation of Detailed Project Report (hereinafter called the “**Consultancy**”) for International Cargo Hub at Haldia, West Bengal
- (B) The Consultant submitted its proposals for the aforesaid work, whereby the Consultant represented to the Owner that it had the required professional skills, and in the said proposals the Consultant also agreed to provide the Services to the Owner on the terms and conditions as set forth in the RFP and this Agreement; and
- (C) The Owner, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy to the Consultant vide its Letter of Award dated _____ (the “LOA”);and
- (D) In pursuance of the LOA, the parties have agreed to enter into this Agreement.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. GENERAL**1.1 Definitions and Interpretation**

1.1.1 The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:

“**Third Party**” means any person or entity other than the Government, the Owner, the Consultant or a Sub-Consultant.

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP.

1.1.2 The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral parts of this Agreement and in case of any contradiction between or among them the priority in which a document would

prevail over another would be as laid down below beginning from the highest priority to the lowest priority:

- (A) Agreement;
- (B) RFP; and
- (C) Letter of Award.

1.2 Relation between the Parties

1.2.1 Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the Owner and the Consultant. The Consultant shall, subject to this Agreement, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Rights and obligations

1.3.1 The mutual rights and obligations of the Owner and the Consultant shall be as set forth in the Agreement, in particular:

- (A) The Consultant shall carry out the Services in accordance with the provisions of the Agreement; and
- (B) The Owner shall make payments to the Consultant in accordance with the provisions of the Agreement.

1.4 Governing law and jurisdiction

1.4.1 This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at New Delhi shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

1.5 Language

1.5.1 All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

1.6 Table of contents and headings

1.6.1 The table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement.

1.7 Notices

1.7.1 Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in

writing and shall:

- (A) in the case of the Consultant, be given by fax or e-mail and by letter delivered by hand to the address given and marked for attention of the Consultant's Representative set out below in Clause 1.10 or to such other person as the Consultant may from time to time designate by notice to the Owner; provided that notices or other communications to be given to an address outside New Delhi may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by fax or e-mail to the number as the Consultant may from time to time specify by notice to the Owner;
- (B) in the case of the Owner, be given by fax or e-mail and by letter delivered by hand and be addressed to the Owner with a copy delivered to the Owner Representative set out below in Clause 1.8 or to such other person as the Owner may from time to time designate by notice to the Consultant; provided that if the Consultant does not have an office in New Delhi it may send such notice by fax or e-mail and by registered acknowledgement due, air mail or by courier; and
- (C) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of fax or e-mail, it shall be deemed to have been delivered on the working days following the date of its delivery.

1.8 Authorised Representatives

- 1.8.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the Owner or the Consultant, as the case may be, may be taken or executed by the officials specified in this Clause 1.8.
- 1.8.2 The Owner may, from time to time, designate one of its officials as the Owner Representative. Unless otherwise notified, the Owner Representative shall be:

Dileep Kumar C

2nd floor, Niryat Bhawan

Rao Tula Ram Marg,

New Delhi -110057

Tel: 011-46000229

Fax: 011-46002244

Email: dileepkumar.chingapurath@ilfsindia.com

- 1.8.3 The Consultant may designate one of its employees as Consultant's Representative. Unless otherwise notified, the Consultant's Representative shall be:

Tel: -----

Mobile: -----

Fax: -----

Email: -----

1.9 Taxes and duties

- 1.9.1 Unless otherwise specified in the Agreement, the Consultant shall pay all such taxes, duties, fees and other impositions as may be levied under the Applicable Laws and the Owner shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed on it.

2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

2.1 Effectiveness of Agreement

- 2.1.1 This Agreement shall come into force and effect on the date of this Agreement (the "Effective Date").

2.2 Commencement of Services

- 2.2.1 The Consultant shall commence the Services within a period of 7 (seven) days from the Effective Date, unless otherwise agreed by the Parties.

2.3 Termination of Agreement for failure to commence Services

- 2.3.1 If the Consultant does not commence the Services within the period specified in Clause 2.2 above and/or does not achieve the stipulated first milestone as specified under Clause 8.3.1 (A) (1) of this agreement within the stipulated time period of two weeks from the issue of LoA, the Owner may, by not less than 2 (two) weeks' notice to the Consultant, declare this Agreement to be null and void at its sole discretion.

2.4 Expiration of Agreement

- 2.4.1 Unless terminated earlier pursuant to Clauses 2.3 or 2.8 hereof, this Agreement shall, unless extended by the Parties by mutual consent, expire upon the earlier of (A) expiry of a period of 90 (ninety) days after the delivery of the final deliverable to the Owner; and (B) the expiry of [1 (one) year] from the Effective Date.

2.5 Entire Agreement

- 2.5.1** This Agreement and the Sections together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Consultant arising out of the provisions of the RFP shall continue to subsist and shall be deemed to form part of this Agreement.
- 2.5.2** Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not covered by this Agreement, the provisions of RFP shall apply.

2.6 Modification of Agreement

- 2.6.1** Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification made by the other Party.

2.7 Suspension of Agreement

- 2.7.1** The Owner may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (A) shall specify the nature of the breach or failure, and (B) shall provide an opportunity to the Consultant to remedy such breach or failure within a period not exceeding 30 (thirty) days after receipt by the Consultant of such notice of suspension.

2.8 Termination of Agreement

2.8.1 By the Owner

- 2.8.1.1** The Owner may, by not less than 30 (thirty) days' written notice of termination to the Consultant, such notice to be given after the occurrence of any of the events specified in this Clause 2.8.1, terminate this Agreement if:

- (A) the Consultant fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.7 hereinabove, within 30 (thirty) days of receipt of such notice of suspension or within such further period as the Owner may have subsequently granted in writing;

- (B) the Consultant becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (C) The Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 11.3 hereof;
- (D) The Consultant submits to the Owner a statement which has a material effect on the rights, obligations or interests of the Owner and which the Consultant knows to be false;
- (E) Any document, information, data or statement submitted by the Consultant in its Proposals, based on which the Consultant was considered eligible or successful, is found to be false, incorrect or misleading;
- (F) The Owner, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

2.8.2 By the Consultant

2.8.2.1 The Consultant may, by not less than 30 (thirty) days' written notice to the Owner, such notice to be given after the occurrence of any of the events specified in this Clause 2.8.2, terminate this Agreement if:

- (A) The Owner fails to pay any money due to the Consultant pursuant to this Agreement and not subject to dispute within 45 (forty five) days after receiving written notice from the Consultant that such payment is overdue;
- (B) The Owner is in material breach of its obligations pursuant to this Agreement and has not remedied the same within 45 (forty five) days (or such longer period as the Consultant may have subsequently granted in writing) following the receipt by the Owner of the Consultant's notice specifying such breach;

2.9 Cessation of rights and obligations

2.9.1 Upon termination of this Agreement pursuant to Clauses 2.3 or 2.8 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (A) such rights and obligations as may have accrued on the date of termination or expiration, or which expressly survive such Termination; (B) the obligation of confidentiality set forth in Clause 4 hereof; (C) the Consultant's obligation to permit inspection, copying and auditing of such of its accounts and records, as relate to the Consultant's Services provided under this Agreement; and (D) any right or remedy which a Party may have under this Agreement or the Applicable Law.

2.10 Cessation of Services

2.10.1 Upon termination of this Agreement by notice of either Party to the other pursuant to Clause 2.8 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.

2.11 Payment upon Termination

2.11.1 Upon termination of this Agreement pursuant, the Owner shall make the following payments to the Consultant (after offsetting against these payments any amount that may be due from the Consultant to the Owner):

- (A) No remuneration shall be made if the agreement is terminated before achievement of first payment milestone mentioned under this agreement.
- (B) remuneration for Services satisfactorily performed prior to the date of termination;
- (C) reimbursable expenditure for expenditures actually incurred prior to the date of termination; and
- (D) except in the case of termination, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement including the cost of the return travel of the Consultant's personnel.

2.12 Disputes about Events of Termination

2.12.1 If either Party disputes whether an event specified in Clause 2.12.1 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 11 hereof, and this Agreement 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 Standards of Performance

3.1.1.1 The Consultant shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate methods. The Consultant shall always act, in respect of any matter relating to this Agreement or to the Services, as a faithful adviser to the Owner, and shall at all times support and safeguard the Owner's legitimate interests in any dealings with Sub-Consultants or Third Parties.

3.1.2 Terms of Reference

3.1.2.1 The scope of services to be performed by the Consultant is specified in the Terms of Reference (the "TOR") at Section-3 of this RFP. The Consultant shall provide the Deliverables specified therein in conformity with the time schedule stated therein.

3.1.3 Applicable Laws

3.1.3.1 The Consultant shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Sub-Consultant, as well as the Personnel and agents of the Consultant and any Sub-Consultant, comply with the Applicable Laws.

3.1.4 Prohibition of conflicting activities

3.1.4.1 Neither the Consultant nor its Sub-Consultant nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

(A) During the term of this Agreement, any business or professional activities which would conflict with the activities specifically which can have a potential or perceived adverse impact on the business prospects of the Project (International Cargo Hub) or business activities of MMTC or IL&FS group.

3.1.5 Consultant not to benefit from commissions discounts, etc.

3.1.5.1 The remuneration of the Consultant shall constitute the Consultant's sole remuneration in connection with this Agreement or the Services and the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-Consultant, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.1.5.2 The Consultant and its Personnel shall observe the highest standards of ethics and shall not have engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "Prohibited Practices"). Notwithstanding anything to the contrary contained in this Agreement, the Owner shall be entitled to terminate this Agreement forthwith by a communication in writing to the Consultant, without being liable in any manner whatsoever to the Consultant, if it determines that the Consultant has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the Owner shall forfeit and appropriate the performance security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Owner towards, inter alia, the time, cost and effort of the Owner, without prejudice to the Owner's any other rights or remedy hereunder or in law.

3.1.5.3 Without prejudice to the rights of the Owner and the other rights and remedies which the Owner may have under this Agreement, if the Consultant is found by the Owner to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the Consultant shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the Consultant is found by the Owner to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.

3.1.5.4 For the purposes of Clauses 3.2.3 and 3.2.4, the following terms shall have the meaning hereinafter respectively assigned to them:

- (A) “**corrupt practice**” means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Owner who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Owner, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser the Owner in relation to any matter concerning the Project;
- (B) “**fraudulent practice**” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (C) “**coercive practice**” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Selection Process or the exercise of its rights or performance of its obligations by the Owner under this Agreement;
- (D) “**undesirable practice**” means (i) establishing contact with any person connected with or employed or engaged by the Owner with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (E) “**Restrictive practice**” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Selection Process.

4. CONFIDENTIALITY

4.1 The Consultant, its Sub-Consultants and the Personnel of either of them shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Owner to the Consultant, its Sub-Consultants and the Personnel; any information provided by or relating to the Owner, its technology, technical processes, business affairs or finances or any information relating to the Owner's employees, officers or other professionals or suppliers, customers, or contractors of the Owner; and any other information which the Consultant is under an obligation to keep confidential in relation to the Project, the Services or this Agreement ("**Confidential Information**"), without the prior written consent of the Owner. Notwithstanding the aforesaid, the Consultant, its Sub-Consultants and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- (A) was in the public domain prior to its delivery to the Consultant, its Sub-Consultants and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Consultant, its Sub-Consultants and the Personnel of either of them;
- (B) was obtained from a third party with no known duty to maintain its confidentiality;
- (C) is required to be disclosed by Applicable Laws or judicial or administrative or arbitral process or by any governmental instrumentalities, provided that for any such disclosure, the Consultant, its Sub-Consultants and the Personnel of either of them shall give the Owner, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and
- (D) is provided to the professional advisers, agents, auditors or representatives of the Consultant or its Sub-Consultants or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Consultant or its Sub-Consultants or Personnel of either of them, as the case may be, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

5. LIABILITY OF THE CONSULTANT

5.1 The Consultant's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.

5.1.1 The Consultant shall, subject to the limitation specified, be liable to the Owner for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.

5.1.2 The Parties hereto agree that in case of negligence or wilful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Owner's property, shall not be liable to the Owner:

(A) for any indirect or consequential loss or damage; and

(B) for any direct loss or damage that exceeds (i) the Agreement Value of this Agreement, or (ii) the proceeds the Consultant may be entitled to receive from any insurance maintained by the Consultant to cover such a liability, whichever of (i) or (ii) is higher.

5.1.3 This limitation of liability shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services subject, however, to a limit equal to 3 (three) times the Agreement Value.

5.2 Insurance to be taken out by the Consultant

5.2.1 The Consultant shall, for the duration of this Agreement, take out and maintain, and shall cause any Sub-Consultant to take out and maintain, at its (or the Sub Consultant's, as the case may be) own cost, but on terms and conditions approved by the Owner, insurance against the risks, and for the coverages, as specified in the Agreement and in accordance with good industry practice.

5.2.2 Within 15 (fifteen) days of receiving any insurance policy certificate in respect of insurances required to be obtained and maintained under this clause, the Consultant shall furnish if asked by the Owner, copies of such policy certificates, copies of the insurance policies and evidence that the insurance premia have been paid in respect of such insurance. No insurance shall be cancelled, modified or allowed to expire or lapse during the term of this Agreement.

5.2.3 If the Consultant fails to effect and keep in force the aforesaid insurances for which it is responsible pursuant hereto, the Owner shall, apart from having other recourse available under this Agreement, have the option, without prejudice to the obligations of the Consultant, to take out the aforesaid insurance, to keep in force any such insurances, and pay such premia and recover the costs thereof from the Consultant, and the Consultant shall be liable to pay such amounts on demand by the Owner.

5.2.4 Except in case of Third Party liabilities, the insurance policies so procured shall mention the Owner as the beneficiary of the Consultant and the Consultant shall procure an undertaking from the insurance company to this effect; provided that in the event the Consultant has a general insurance policy that covers the risks specified in this Agreement and the amount of insurance cover is equivalent to 3 (three) times the cover required hereunder, such insurance policy may not

mention the Owner as the sole beneficiary of the Consultant or require an undertaking to that effect.

(A) The Parties agree that the risks and coverages shall include but not be limited to the following:

- (i) Third Party liability insurance as required under Applicable Laws,;
- (ii) employer's liability and workers' compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultant, in accordance with Applicable Laws; and
- (iii) professional liability insurance for an amount no less than the Agreement Value.

5.3 Consultant's actions requiring the Owner's prior approval

5.3.1 The Consultant shall obtain the Owner's prior approval in writing before taking any of the following actions:

(A) Entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-Consultant and the terms and conditions of the subcontract shall have been approved in writing by the Owner prior to the execution of the subcontract, and (ii) that the Consultant shall remain fully liable for the performance of the Services by the Sub-Consultant and its Personnel pursuant to this Agreement; or

(B) Any other action that is specified in this Agreement.

5.4 Reporting obligations

5.4.1 The Consultant shall submit to the Owner the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.

5.5 Documents prepared by the Consultant to be property of the Owner

5.5.1 All plans, drawings, specifications, designs, reports and other documents (collectively referred to as "**Consultancy Documents**") prepared by the Consultant (or by the Sub-Consultants or any Third Party) in performing the Services shall become and remain the property of the Owner, and all intellectual property rights in such Consultancy Documents shall vest with the Owner. Any Consultancy Document, of which the ownership or the intellectual property rights do not vest with the Owner under law, shall automatically stand assigned to the Owner as and when such Consultancy Document is created and the Consultant agrees to execute all papers and to perform such other acts as the Owner may deem necessary to secure its rights herein assigned by the Consultant.

5.5.2 The Consultant shall, not later than termination or expiration of this Agreement, deliver all Consultancy Documents to the Owner, together with a detailed inventory thereof. The Consultant may retain a copy of such Consultancy Documents. The Consultant, its Sub-Consultants or a Third Party shall not use these Consultancy Documents for purposes unrelated to this Agreement without the prior written approval of the Owner.

5.5.3 The Consultant shall hold the Owner harmless and indemnified for any losses, claims, damages, expenses (including all legal expenses), awards, penalties or injuries (collectively referred to as 'claims') which may arise from or due to any unauthorised use of such Consultancy Documents, or due to any breach or failure on part of the Consultant or its Sub-Consultants or a Third Party to perform any of its duties or obligations in relation to securing the aforementioned rights of the Owner.

5.6 Equipment and materials furnished by the Owner

5.6.1 Equipment and materials made available to the Consultant by the Owner shall be the property of the Owner and shall be marked accordingly. Upon termination or expiration of this Agreement, the Consultant shall furnish forthwith to the Owner, an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the instructions of the Owner. While in possession of such equipment and materials, the Consultant shall, unless otherwise instructed by the Owner in writing, insure them in an amount equal to their full replacement value.

5.7 Accuracy of Documents

5.7.1 The Consultant shall be responsible for accuracy of the data collected by it directly or procured from other agencies/authorities, the designs, drawings, estimates and all other details prepared by it as part of these services. It shall indemnify the Owner against any inaccuracy in its work which might surface during implementation of the Project, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Consultant or arises out of its failure to conform to good industry practice. The Consultant shall also be responsible for promptly correcting, at its own cost and risk, the drawings including any re-survey / investigations.

6. CONSULTANT'S PERSONNEL AND SUB-CONSULTANTS

6.1 General

6.1.1 The Consultant shall employ and provide such qualified and experienced Personnel as may be required to carry out the Services.

6.2 Sub-Consultants

6.2.1 The Consultant may, with prior written approval of the Owner, engage Sub-Consultants.

7. OBLIGATIONS OF THE OWNER

7.1 Access to land and property

7.1.1 The Owner warrants that the Consultant shall have, free of charge, unimpeded access to the site of the project in respect of which access is required for the performance of Services; provided that if such access shall not be made available to the Consultant as and when so required, the Parties shall agree on (A) the time extension, as may be appropriate, for the performance of Services, and (B) the additional payments, if any, to be made to the Consultant as a result thereof.

7.2 Change in Applicable Law

7.2.1 If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Consultant in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the aforesaid Agreement Value.

7.3 Payment

7.3.1 In consideration of the Services performed by the Consultant under this Agreement, the Owner shall make to the Consultant such payments and in such manner as is provided in Clause 8 of this Agreement.

8. PAYMENT TO THE CONSULTANT

8.1 Cost estimates and Agreement Value

8.1.1 The payments under this Agreement shall not exceed the agreement value specified herein (the "**Agreement Value**"). The Parties agree that the Agreement Value is Rs. (Rupees).

8.2 Currency of payment

8.2.1 All payments shall be made in Indian Rupees.

8.3 Mode of billing and payment

8.3.1 Billing and payments in respect of the Services shall be made as follows:

- A. 10% of the contract value against submission of Concept Report
- B. 15% of the contract value against submission of Draft Report
- C. 30% of the contract value against submission of Final Report

- D. 20% of the contract value against submission of Engineering detailing and drawings
- E. 20% of the contract value against approval of Final Report by the Board of Directors
- F. 5% on Financial Closure of the Project.

8.3.2 The Consultant shall be paid for its services as per the following Payment Terms

A. No payment shall be due for the next stage till the Consultant completes, to the satisfaction of the Owner, the work pertaining to the preceding stage.

B. The Owner shall pay to the Consultant, only the undisputed amount.

8.3.3 The Owner shall cause the payment due to the Consultant to be made within 30 (thirty) days after the receipt by the Owner of duly completed invoices with necessary particulars (**the “Due Date”**).

8.3.4 Any amount which the Owner has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Consultant to the Owner within 30 (thirty) days after receipt by the Consultant of notice thereof. Any such claim by the Owner for reimbursement must be made within 1 (one) year after receipt by the Owner of a final report. Any delay by the Consultant in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.

8.3.5 All payments under this Agreement shall be made to the account of the Consultant as may be notified to the Owner by the Consultant.

9. LIQUIDATED DAMAGES AND PENALTIES

9.1 Liquidated Damages

9.1.1 Liquidated Damages for error/variation

9.1.1.1 In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by the Owner in a reasonable manner and recovered from the Consultant by way of deemed liquidated damages, subject to a maximum of 50% (fifty per cent) of the Agreement Value.

9.1.2 Liquidated Damages for delay

9.1.2.1 In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.2% (zero point two per cent) of the Agreement Value per day, subject to a maximum of 10% (ten per cent) of the Agreement Value will be imposed and shall be recovered by appropriation from the Performance Security or

otherwise. However, in case of delay due to reasons beyond the control of the Consultant, suitable extension of time shall be granted.

10. FAIRNESS AND GOOD FAITH

10.1 Good Faith

10.1.1 The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realisation of the objectives of this Agreement.

10.2 Operation of the Agreement

10.2.1 The Parties recognise that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement 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 failure to agree on any action pursuant to this Clause shall not give rise to a dispute subject to arbitration.

11. SETTLEMENT OF DISPUTES

11.1 Amicable settlement

11.1.1 The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Agreement or the interpretation thereof.

11.2 Dispute resolution

11.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "**Dispute**") shall, in the first instance, be attempted to be resolved amicably.

11.2.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

11.3 Arbitration

11.3.1 Any Dispute which is not resolved amicably shall be finally decided by reference to arbitration by an Arbitral Tribunal comprising of a sole Arbitrator jointly appointed by both the parties. Such arbitration shall be held in accordance with the provisions

of the Arbitration and Conciliation Act, 1996. The venue of such arbitration shall be New Delhi and the language of arbitration proceedings shall be English. The decision/ Award of the Arbitrator shall be binding on both Parties

11.3.2 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

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

For HFTWPL
Director

For Consultant
(Authorised Signatory)