

RFP for Consultants for Jajpur District Administration on Heritage, Arts, Culture and Tourism (HACT)

Date: 07 May 2021

Response to Pre-Bid Queries

#	Page No. (As per pdf)	Reference Clause No.	Reference Clause	Query/ Suggested Change	Response
1	6	1.3	Overview of Bidding Process: All Bidders must submit a sum of Rs.10,000/- (Rupees ten thousand only) towards the cost of the RFP Document in the form of Demand Draft only	<ol style="list-style-type: none"> As per our understanding, the cost of the RFP document i.e. of Rs.10,000/- (Rupees ten thousand only) is inclusive of GST. Please confirm. The mode of submission as per RFP is restricted to Demand Draft only. Request you to consider NEFT/RTGS mode as well. Thus, request you to share the bank details for the same. 	Please refer to Corrigendum 1.
2	8	1.5	Only three representatives from each bidder with necessary authorization will be allowed to attend the meeting virtually.	Request you to clarify if the details (Name, Designation, contact details) of the three representatives need to be shared prior to the meeting with the Client.	No response required.
3	9	2.1	Bid Security: The Bid must be accompanied by a refundable Bid Security amount of Rs.5,00,000/- (Rupees Five Lakhs only) in the form of Bank Guarantee / Term Deposit Receipt (TDR) issued by any Nationalized or Scheduled Bank having branch at Odisha in favor of "in favor of "Collector, Jajpur"...	<ol style="list-style-type: none"> Request you to consider the submission of Bid Security in the Form of NEFT/RTGS. Thus, request you to share the bank details for the same. Alternatively, request you to consider Bid Security in form of Demand Draft. Thus, the below clause may be considered: "The Bid must be accompanied by a refundable Bid Security amount of Rs.5,00,000/- (Rupees Five Lakhs only) in the form of NEFT/RTGS/ Demand Draft/ Bank Guarantee / Term Deposit Receipt (TDR) issued by any Nationalized or Scheduled Bank having branch at Odisha in favor of "in favor of "Collector, Jajpur"..." 	Please refer to Corrigendum 1.
4	10	2.5	Submission of Bids: The envelopes should be super-scribed as "RFP for Jajpur District Administration on Heritage, Arts, Culture and Tourism (HACT) under the Collector, Jajpur, the Government of Odisha – Technical Bid/Financial Bid" as the case may be. Bid	<ol style="list-style-type: none"> Considering the unprecedented situation due to pandemic, it is requested to consider the proposal submission over email instead of hard copy submission. Thus, the below clause may be considered: "The Bidder will submit the proposal electronically at Email: hactjajpur@gmail.com in the following manner: 	A decision will be taken and intimated shortly in compliance with COVID19 guideline of

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			<p>Security and RFP document fee shall be submitted in the Technical Bid envelope. The two envelopes (Technical Bid, Financial Bid) should be enclosed in a large cover super-scribed as “RFP for Jajpur District Administration on Heritage, Arts, Culture and Tourism (HACT) under Collector, Jajpur, Government of Odisha – Technical Bid/Financial Bid”.</p> <p>The Bidders shall submit two copies of the proposal in separate envelopes marked “Original” and “Copy” respectively. In the event of any discrepancy between the Original and Copy, the Original shall prevail.</p>	<p>(i) Technical Proposal file clearly named as “<Bidder Name> – Technical Proposal – Jajpur HACT”. It may be noted that Technical Proposal shall have the proof of submission of cost of the RFP document and EMD.</p> <p>(ii) Financial Proposal file should be named as “Bidder Name – Financial Proposal – Jajpur HACT”. The financial proposal should be password protected. Bidders are instructed to not reveal or share the password with anyone unless and until asked through an official communication. Attached herewith is a similar clause from UNICEF RFP in Annexure 3.</p>	Government of India and Government of Odisha.
5	12	2.12	<p>Financial Bid: The agency should quote lump sum monthly professional fee for consulting services that shall include all out of pocket expenses, applicable taxes and other statutory levies etc. for the duration of the project (24 months).</p>	<p>1. As we understand, the lump sum monthly professional fee for consulting services shall include all out of pocket expenses, applicable taxes and other statutory levies etc. for the duration of the project (24 months) except GST. This is also clearly mentioned in Annexure IX FINANCIAL BID – FIN 1</p> <p>2. Thus, the below clause may be considered: “Financial Bid: The agency should quote lump sum monthly professional fee for consulting services that shall include all out of pocket expenses, applicable taxes and other statutory levies etc. except GST for the duration of the project (24 months).”</p>	Please refer to Corrigendum 1.
6	15	3.2	<p>Key Personnel: Team leader (5 years)</p> <ul style="list-style-type: none"> Bachelor’s degree in hotel management, tourism or related field. Post graduate degree in relevant field/business management is additional advantage... 	<p>1. For the Team Leader position, we request you to consider a management consultant with relevant educational background in commerce and management as well.</p> <p>2. Thus, the below clause may be considered: “Bachelor’s degree in commerce, hotel management, tourism or related field. Post graduate degree in relevant field/business management is additional advantage...”</p>	Please refer to Corrigendum 1.
7	17	3.4	<p>Evaluation Criteria: The technical Bid will be evaluated on a scale of 100, and the breakup for each criterion would be as follows:</p> <p>(i) Financial Capability – 10</p>	<p>1. It may be noted that the sum total of the criteria defined in the evaluation criteria is 80 while the RFP states evaluation on a scale of 100.</p> <p>2. Thus, the below clause may be considered:</p>	Please refer to Corrigendum 1.

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			(ii) Firm's experience – 20 marks (iii) Evaluation of A&M and technical presentation: 50 marks	“Evaluation Criteria: The technical Bid will be evaluated on a scale of 80 , and the breakup for each criterion would be as follows: (i) Financial Capability – 10 (ii) Firm's experience – 20 marks (iii) Evaluation of A&M and technical presentation: 50 marks”	
8	18	3.4	Note: Physical presentation will be done. A team of maximum three members will be allowed	1. Considering the unprecedented situation due to pandemic and the lockdown imposition in Odisha, it is requested to conduct the technical presentation virtually . 2. Thus, the below clause may be considered: “ Virtual presentation will be done . The coordinates shall be communicated officially. A team of maximum three members will be allowed per Bidder to be present for this meeting.”	Clarification will be issued on this point subsequently. Furthermore, the date of the Technical Presentation may be extended based on Covid-19 lockdown guidelines of state and central governments.
9	25	9	Annexure VI DESCRIPTION OF APPROACH & METHODOLOGY AND WORK PLAN FOR UNDERTAKING THE ASSIGNMENT a) Understanding of TOR, Technical Approach and Methodology b) Work Plan This section should not exceed more than 10 pages of a Microsoft Word document, with following specifications: • Minimum font size of 10	1. As per RFP terms and conditions, the presentation is scheduled next day of the technical submission. Considering this, request you to consider the submission of Technical Presentation in presentation format (instead of word document) in order to meet requirements of Annexure VI. 2. Thus, the below clause may be considered: “Annexure VI: DESCRIPTION OF APPROACH & METHODOLOGY AND WORK PLAN FOR UNDERTAKING THE ASSIGNMENT a) Understanding of TOR, Technical Approach and Methodology b) Work Plan	Please refer to Corrigendum 1.

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			<ul style="list-style-type: none"> Line spacing at least 1.15 	This section should be in presentation format, attached with the Technical Proposal and delivered during Technical Presentation by the Bidder”	
10	26	10	Annexure VII: Power of Attorney	<ol style="list-style-type: none"> Please note that Digital Signatures are not allowed on Power of Attorney. It should only be physically signed by Executor and Acceptor. In the current COVID-19 pandemic situation, multiple cities/states including Odisha are in full/partial lockdown. Hence, it is not possible to procure Stamp paper and Physical Signatures of the relevant officials. We suggest that the Client allow Letter of Authority (LOA) in place of POA. LOA can be executed on the Letterhead of the Bidder organization and also Digital Signatures can be used on the same. Kindly consider the draft placed at Annexure 2. 	Please refer to Corrigendum 1.
11	-	-	Additional	<p>We request you to consider adding the following clause for Limitation of Liability:</p> <p>“The Client (and any others for whom Services are provided) shall not recover from consultant, in contract or tort, including indemnification obligations under this contract, under statute or otherwise, aggregate damages in excess of the fees actually paid for the Services that directly caused the loss in connection with claims arising out of this Agreement or otherwise relating to the Services.”</p>	Please refer to Addendum 1: Standard Conditions of Contract (SC)
12	-	-	Additional	<p>We request you to consider the following clause for Confidentiality:</p> <p>"Except as otherwise permitted by this Agreement, neither of the parties may disclose to third parties the contents of this Agreement or any information provided by or on behalf of the other that ought reasonably to be treated as confidential and/or proprietary. Parties may, however, disclose such confidential information to the extent that it: (a) is or becomes public other than through a breach of this Agreement, (b) is subsequently received by the receiving party from a third party who, to the receiving party's knowledge, owes no obligation of confidentiality to the disclosing party with respect to</p>	Please refer to Addendum 1: Standard Conditions of Contract (SC)

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				that information, (c) was known to the receiving party at the time of disclosure or is thereafter created independently, (d) is disclosed as necessary to enforce the receiving party's rights under this Agreement, or (e) must be disclosed under applicable law, legal process or professional regulations. These obligations shall be valid for a period of 3 years from the date of termination of this Agreement."	
13	-	-	Additional	We request you to consider the following clause for Intellectual Property Rights: "Consultant may use data, software, designs, utilities, tools, models, systems and other methodologies and know-how ("Materials") that consultant own in performing the Services. Notwithstanding the delivery of any Reports, consultant retain all intellectual property rights in the Materials (including any improvements or knowledge developed while performing the Services), and in any working papers that consultant compile and retain in connection with the Services (but not Client Information reflected in them). Upon payment for the Services, Client may use any Materials included in the Reports, as well as the Reports themselves as permitted by this Agreement."	Please refer to Addendum 1: Standard Conditions of Contract (SC)
14	-	-	Additional	We request you to consider the following clause for Termination: "Consultant may terminate this Agreement, or any particular Services, immediately upon written notice to Client if consultant reasonably determine that consultant can no longer provide the Services in accordance with applicable law or professional obligations."	Please refer to Addendum 1: Standard Conditions of Contract (SC)
15	-	-	Additional	We request you to consider the following clause for Force Majeure: (i) Definition: For the purpose of these standard terms, "Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances. (ii) No Breach of Contract: The failure of a Party to fulfill any of its obligations under the contract shall not be considered to	Please refer to Addendum 1: Standard Conditions of Contract (SC)

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				<p>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 (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.</p> <p>(iii) Extension of Time: Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.</p> <p>(iv) Payments: During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract.</p> <p>(v) To the extent that the provision of the Services is impacted by a pandemic (including COVID-19) and any reasonable concerns or measures taken to protect the health and safety interests of either Party's personnel, the Parties will work together to amend the Agreement to provide for the Services to be delivered in an appropriate manner, including any resulting modifications with respect to the timelines, location, or manner of the delivery of Services.</p> <p>(vi) Where consultant personnel are required to be present at Client's premises, consultant will use reasonable efforts to provide the Services on-site at Client offices, provided that, in light of a pandemic the parties agree to cooperate to allow for remote working and/or an extended timeframe to the extent (i) any government or similar entity implements restrictions that may interfere with provision of onsite Services; (ii) either party implements voluntary limitations on travel or meetings that could interfere with provision of onsite Services, or (iii) an consultant resource determines</p>	

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				that he or she is unable or unwilling to travel in light of a pandemic-related risk	
16	-	-	Additional	<p>We request you to consider the following clause for</p> <p>Dispute resolution</p> <p>(i) Any dispute arising out of or in connection with this Agreement shall be referred by written notice:</p> <ul style="list-style-type: none"> - first to the Service Manager of each Party who shall meet and endeavour to resolve the dispute between them within five (5) Business Days of such notice; and - failing resolution of the dispute, to a senior Service Manager of the Supplier and a senior Service Manager of consultant (together the "Senior Service Managers") who shall meet and endeavour to resolve the dispute between them within ten (10) Business Days of such notice (the "Senior Service Managers' Meeting"). The joint written decision of those Senior Service Managers shall be binding on the Parties. - If the Service Managers or Senior Service Managers are unable to resolve the dispute, the Parties shall, refer the dispute to arbitration and shall be governed by the provisions of the Arbitration & Conciliation Act, 1996 (as amended). The arbitration proceedings shall be adjudicated by a sole arbitrator appointed by mutual consent of both the Parties, and the arbitration proceedings shall be held in Odisha. The language of arbitration shall be English. The decision of the arbitrator shall be final and binding upon the Parties. 	Please refer to Addendum 1: Standard Conditions of Contract (SC)
17	NA	NA	Additional	We request inclusion of General Conditions of Contract/Sample Contract, as is standard in government tenders as an addendum to the RFP. If required, we can share sample for the Client's reference basis past experience.	Please refer to Addendum 1: Standard Conditions of Contract (SC)

Corrigendum 1**RFP for Consultants for Jajpur District Administration on Heritage, Arts, Culture and Tourism (HACT)**

S. No.	Reference clause No.	Original Clause	To be read as
1.	1.3	Overview of Bidding Process: All Bidders must submit a sum of Rs.10,000/- (Rupees ten thousand only) towards the cost of the RFP Document in the form of Demand Draft only	Overview of Bidding Process: All Bidders must submit a sum of Rs.10,000/- (Rupees ten thousand only) inclusive of GST towards the cost of the RFP Document in the form of Demand Draft/ NEFT/RTGS . Specific account will be opened for NEFT/RTGS purpose and details of the same will be uploaded by Wednesday 12 May 2021 .
2.	2.1	Bid Security: The Bid must be accompanied by a refundable Bid Security amount of Rs.5,00,000/- (Rupees Five Lakhs only) in the form of Bank Guarantee / Term Deposit Receipt (TDR) issued by any Nationalized or Scheduled Bank having branch at Odisha in favor of "in favor of "Collector, Jajpur"...	Bid Security: The Bid must be accompanied by a refundable Bid Security amount of Rs.5,00,000/- (Rupees Five Lakhs only) in the form of NEFT/RTGS/ Demand Draft/ Bank Guarantee / Term Deposit Receipt (TDR) issued by any Nationalized or Scheduled Bank having branch at Odisha in favor of "in favor of "Collector, Jajpur" Specific account will be opened for NEFT/RTGS purpose and details of the same will be uploaded by Wednesday 12 May 2021 .
3.	2.12	Financial Bid: The agency should quote lump sum monthly professional fee for consulting services that shall include all out of pocket expenses, applicable taxes and other statutory levies etc. for the duration of the project (24 months).	Financial Bid: The agency should quote lump sum monthly professional fee for consulting services that shall include all out of pocket expenses, applicable taxes and other statutory levies etc. except GST for the duration of the project (24 months).
4.	3.2	Key Personnel: Team leader (5 years) Bachelor's degree in hotel management, tourism or related field. Post graduate degree in relevant field/business management is additional advantage...	Key Personnel: Team leader (5 years) Bachelor's degree in commerce , hotel management, tourism or related field. Post graduate degree in relevant field/business management is additional advantage
5.	3.4	Evaluation Criteria: The technical Bid will be evaluated on a scale of 100, and the breakup for each criterion would be as follows:	Evaluation Criteria: The technical Bid will be evaluated on a scale of 80 , and the breakup for each criterion would be as follows:

S. No.	Reference clause No.	Original Clause	To be read as
		(i) Financial Capability – 10 (ii) Firm's experience – 20 marks (iii) Evaluation of A&M and technical presentation: 50 marks	(i) Financial Capability – 10 (ii) Firm's experience – 20 marks (iii) Evaluation of A&M and technical presentation: 50 marks"
6.	9	Annexure VI: DESCRIPTION OF APPROACH & METHODOLOGY AND WORK PLAN FOR UNDERTAKING THE ASSIGNMENT a) Understanding of TOR, Technical Approach and Methodology b) Work Plan This section should not exceed more than 10 pages of a Microsoft Word document, with following specifications: <ul style="list-style-type: none"> • Minimum font size of 10 • Line spacing at least 1.15 	Annexure VI: DESCRIPTION OF APPROACH & METHODOLOGY AND WORK PLAN FOR UNDERTAKING THE ASSIGNMENT a) Understanding of TOR, Technical Approach and Methodology b) Work Plan <i>This section should be in presentation format, attached with the Technical Proposal and delivered during Technical Presentation by the Bidder"</i>
7.	10	Annexure VII: Power of Attorney	Refer to Annexure to Corrigendum below for Letter of Authority format, which may be accepted in place of Power of Attorney due to pandemic situation.

Annexure to Corrigendum 1:

10. Annexure VII: Letter of Authority (LOA)

Dated: _____ 2021

To

_____ (Designation)

_____ (Client Name),

Address: _____

Dear Sir,

Sub: _____ (Project)

RFP Ref No: _____ dated _____

Mr. _____, s/o _____, r/o _____, who is holding the position of _____, Authorized Signatory, in _____ <Bidder Name> and having its registered office at _____, is hereby nominated, appointed and authorized by the _____ to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Proposal for “ _____ ” (the “Project”) to be developed or being taken up by _____ (the “Client”), including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof.

Further, this Letter of Authority shall be effective, binding, and operative till _____, (date-tenure of the project) if not revoked earlier or as long as the said Authorized Signatory is in the service, whichever is earlier.

For <Bidder>

_____ Accepted:

Addendum 1: Standard Conditions of Contract (SC)

This Addendum is to be read in conjunction with the RFP.

These conditions shall be part of the contract agreement

1. GENERAL PROVISIONS

1.1. Governing law and jurisdiction

These standard conditions shall be governed by and construed in accordance with the laws of India and any dispute arising out of this project or these terms shall be subject to the exclusive jurisdiction of the courts of district courts of Odisha, India.

1.2. Notices

1.2.1. Any notice, request or consent required or permitted to be given or made pursuant to these standard conditions 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 mentioned address.

1.2.2. A party may change its address for notice hereunder by giving the other party notice in writing of such change to the mentioned address.

1.3. Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed under these standard conditions by the Client or the Successful Bidder may be taken or executed by the officials as formally designated by each party as on the effective date of the project.

1.4. Taxes and Duties

The Consultant and their personnel shall pay such direct, duties, fees, and other impositions levied under the Government of India Act.

1.5. Fraud and Corruption

1.5.1. "corrupt practice" means the offering, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;

1.5.2. "fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;

1.5.3. "collusive practices" means a scheme or arrangement between the consultant, with or without the knowledge of the Client, designed to establish prices at artificial, non-competitive levels;

1.5.4. "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;

1.6. Measures to be taken

The Client will cancel the Consultant's engagement, if it is engaged in corrupt, fraudulent, collusive or coercive practices during the selection process or the execution of that contract

2. COMMENCEMENT, COMPLETION, MODIFICATION ARBITRATION AND TERMINATION OF CONTRACT

2.1. Effectiveness of Contract

This Contract shall come into effect on the date the award of work and such other later date as discussed and agreed with the Client. The date the Contract comes into effect is defined as the Effective Date.

2.2. Commencement of Services

The Consultant shall begin carrying out the Services from the Effective Date or any such date as specified by the Client.

2.3. Expiration of Contract

Unless terminated earlier pursuant to Clause 2.6 hereof, these standard conditions shall expire at the end of such time period after the Effective Date as given in the time schedule in RFP Document.

2.4. Modifications or Variations

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

2.5. Force Majeure

- 2.5.1. Definition: For the purpose of these standard terms, "Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
- 2.5.2. No Breach of Contract: The failure of a Party to fulfill any of its obligations under the contract 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 (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
- 2.5.3. Extension of Time: Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 2.5.4. Payments: During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract.
- 2.5.5. To the extent that the provision of the Services is impacted by a pandemic (including COVID-19) and any reasonable concerns or measures taken to protect the health and safety interests of either Party's personnel, the Parties will work together to amend the Agreement to provide for the Services to be delivered in an appropriate manner, including any resulting modifications with respect to the timelines, location, or manner of the delivery of Services.
- 2.5.6. Where Consultant Personnel are required to be present at Client's premises, Consultant will use reasonable efforts to provide the Services on-site at [Client] offices, provided that, in light of a pandemic the parties agree to cooperate to allow for remote working and/or an extended timeframe to the extent (i) any government or similar entity implements restrictions that may interfere with provision of onsite Services; (ii) either party implements voluntary limitations on travel or meetings that could interfere with provision of onsite Services, or (iii) a Consultant resource

determines that he or she is unable or unwilling to travel in light of a pandemic-related risk.

2.6. Termination

Either Party may terminate this Agreement with immediate effect by serving prior written notice to the other party if services are not possible to be rendered as per applicable laws or professional obligations.

2.6.1. By the Client

The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (i) through (vi) of this Clause 2.6.1. In such an occurrence the Client shall give a not less than fifteen (15) days' written notice of termination to the Consultant, and thirty (30) days' in the case of the event referred to in (v).

- i. If the Consultant does not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing.
- ii. If the Consultant becomes insolvent or bankrupt.
- iii. If the Consultant, in the judgment of the Client has engaged in any of practices as defined in clause 2.5 competing for or in executing the Contract.
- iv. If, as the result of Force Majeure, the Consultant are unable to perform a material portion of the Services for a period of not less than thirty (30) days.
- v. If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- vi. If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 8 hereof.

2.6.2. By the Consultant

The Consultant may terminate the Contract, by not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (i) through (ii) of this Clause 2.6.2

- i. If the Client fails to pay any money due to the Consultant pursuant to the Contract and not subject to dispute pursuant to Clause 8 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue. 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 thirty (30) days.
- ii. If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause 8.2 hereof.

However, Consultant may terminate this Agreement, or any particular Services, immediately upon written notice to the Client if Consultant reasonably determine that Consultant can no longer provide the Services in accordance with applicable law or professional obligations.

2.7. Payment and Penalties upon Termination

Upon termination of the Contract pursuant to Clauses 2.6.1 or 2.6.2, the Client shall make the following payments to the Consultant: (a) payment pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination; (b) except in the case of termination pursuant to paragraphs (i) through (iii), and (vi) of Clause 2.6.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract.

If the Contract is terminated on default of the consultant as defined in clause (i) to (iii) and (vi) of clause 2.6.1, then Client may encash the performance security

3. OBLIGATIONS OF THE CONSULTANT

3.1. General

The Consultant shall always act, in respect of any matter relating to the Contract or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-Consultants or third Parties.

3.2. 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.

3.3. Conflict of Interests

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

3.4. 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 which would conflict with the activities assigned to them under this Contract.

3.5. Confidentiality

Except with the prior written consent of the Client, 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. Except as otherwise permitted by this Agreement, neither of the parties may disclose to third parties the contents of this Agreement or any information/report/advice provided by or on behalf of the other that ought reasonably to be treated as confidential and/or proprietary. Parties may, however, disclose such confidential information to the extent that it: (a) is or becomes public other than through a breach of this Agreement, (b) is subsequently received by the receiving party from a third party who, to the receiving party's knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information, (c) was known to the receiving party at the time of disclosure or is thereafter created independently, (d) is disclosed as necessary to enforce the receiving party's rights under this Agreement, or (e) must be disclosed under applicable law, legal process or professional regulations. These obligations shall be valid for a period of three (3) years from the date of termination of this Agreement.

3.6. Consultant's Actions

The Consultant shall inform the Client in writing before taking any of the following actions:

- i. Entering into a subcontract for the performance of any part of the Services,
- ii. Appointing such members of the Personnel not listed in the team presented in the technical proposal submitted by the consultant

3.7. Documents Prepared by the Consultant to be the Property of the Client

- i. Consultant may use data, software, designs, utilities, tools, models, systems and other methodologies and know-how ("Materials") that Consultant owns in performing the Services. Notwithstanding the delivery of any Reports, Consultant retains all intellectual property rights in the Materials (including any improvements or knowledge developed while performing the Services), and in any working papers that Consultant compiles and retains in connection with the Services (but not Client information reflected in them). Upon payment for the Services, Client may use any Materials included in the Reports, as well as the Reports themselves as permitted by this Agreement.

4. CONSULTANT'S PERSONNEL

4.1. Description of Personnel

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

4.2. Removal and/or Replacement of Personnel

- i. The Removal and/ or Replacement of Personnel can be made basis discussion between the parties. In such a case, the Consultant shall provide a replacement a person of equivalent or better qualifications with the consent of the client.
- ii. If the Client finds that any of the Personnel have (a) committed serious misconduct or have been charged with having committed a criminal action, or (b) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.
- iii. The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. OBLIGATIONS OF THE CLIENT

5.1. Assistance and Exemptions

The Client shall use its best efforts to ensure that it shall provide the Consultant such assistance as reasonably required for the execution of the project.

The Client shall provide the Consultant with copies of all the available data and reports, considered relevant to the execution of the Consultant's work.

5.2. Cost of procuring any software/ hardware/ vendors outside the Scope of this Contract will be borne by the Client

5.3. If required, the Client shall provide dedicated seating space in Client office to the Consultant's team, including internet connection, electricity and other support infrastructure.

6. PAYMENTS TO THE CONSULTANT

6.1. Contract Price

The contract price will be payable in Indian Rupee.

6.2. Terms and Conditions of Payment

Payments will be made to the account of the Consultant and according to the payment schedule stated in the RFP Document.

6.3. Client shall, within 30 days from the date of receipt of the invoice make payment to the consultant as per terms of the RFP document.

7. 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.

8. SETTLEMENT OF DISPUTES

8.1. Amicable Settlement

The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

8.2. Arbitration

Any dispute arising out of or in connection with this Agreement shall be referred by written notice:

- first to the Service Manager of each Party who shall meet and endeavour to resolve the dispute between them within five (5) Business Days of such notice; and
- failing resolution of the dispute, to a senior Service Manager of the Supplier and a senior Service Manager of consultant (together the "Senior Service Managers") who shall meet and endeavour to resolve the dispute between them within ten (10) Business Days of such notice (the "Senior Service Managers' Meeting"). The joint written decision of those Senior Service Managers shall be binding on the Parties.
- If the Service Managers or Senior Service Managers are unable to resolve the dispute, the Parties shall, refer the dispute to arbitration and shall be governed by the provisions of the Arbitration & Conciliation Act, 1996 (as amended). The arbitration proceedings shall be adjudicated by a sole arbitrator appointed by mutual consent of both the Parties, and the arbitration proceedings shall be held in Odisha. The language of arbitration shall be English. The decision of the arbitrator shall be final and binding upon the Parties.

9. DETERMINATION OR RECESSION OF AGREEMENT

The Client without any prejudice to its right against the consultant in respect of any delay by notice in writing absolutely determines the contract in any of the following cases:

- 9.1. If the Consultant being a firm/company shall pass a resolution or the court shall make any order that the firm/ company shall be wound up or if a receiver or a manager on behalf of the creditor shall be appointed or if circumstances shall arise which entitle the court or creditor to appoint a receiver or a manager or which entitled the court to make up a winding order.
- 9.2. If the Consultant is in breach of any of terms of agreement
- 9.3. When the Consultant has made himself liable for action under any of the cases aforesaid the Client shall have powers : To determine or rescind the agreement; To engage another

consultant to carry out the balance work debiting the consultant the excess amount if any so spent

10. GENERAL

10.1. It is hereby further agreed between the parties that the stamp duty payable under the law in respect of this agreement shall be borne by the Consultant.

11. LIMITATION OF LIABILITY

11.1. The Client (and any others for whom Services are provided) shall not recover from consultant, in contract or tort, including indemnification obligations under this contract, under statute or otherwise, aggregate damages in excess of the fees actually paid for the Services that directly caused the loss in connection with claims arising out of this Agreement or otherwise relating to the Services.

11.2. To the fullest extent permitted by applicable law and professional regulations, Client shall indemnify Consultant against all claims by third parties (including the Client's affiliates) and resulting liabilities, losses, damages, costs and expenses (including reasonable external and internal legal costs) arising out of the third party's use of or reliance on any Report disclosed to it by or through Client or at Client request. Client shall have no obligation hereunder to the extent that Consultant have specifically authorized, in writing, the third party's reliance on the Report.

(END OF DOCUMENT)