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**Section 8**

**PART-II**

**STANDARD FORM OF CONTRACT**

# **Consultant's Services**

Time-Based



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**CONTRACT FOR CONSULTANT'S SERVICES**

**Time-Based**

**Project Name: Implementation of Smart City projects under Smart City Mission in LucknowCity**

**Contract No. RFP No. :**

**between**

**Lucknow Smart City Limited**

**and**

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*[Name of the Consultant]*

**Dated:** \_\_\_\_\_



## I. Form of Contract

### TIME-BASED

(Text in brackets [ ] is optional; all notes should be deleted in the final text)

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

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

#### WHEREAS

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

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
  - (a) The General Conditions of Contract (including Attachment 1 "Corrupt and Fraudulent Practices);
  - (b) The Special Conditions of Contract;
  - (c) Appendices:
    - Appendix A: Terms of Reference
    - Appendix B: Key Experts and Non Key Experts
    - Appendix C: Remuneration Cost Estimates
    - Appendix D: Reimbursable Cost Estimates
    - Appendix E: Form of Performance Guarantee

In the event of any inconsistency between the documents, the following order of precedence shall prevail: the Special Conditions of Contract; the General Conditions of Contract, including Attachment 1; Appendix A; Appendix B; Appendix C; Appendix

D; and Appendix E. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

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

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

For and on behalf of **Lucknow Smart City Limited**

\_\_\_\_\_  
*[Authorized Representative of the Client – name, title and signature]*

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

\_\_\_\_\_  
*[Authorized Representative of the Consultant – name and signature]*

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

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

*[Name of the lead member]*

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

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



## II. General Conditions of Contract

### A. GENERAL PROVISIONS

<p><b>1. Definitions</b></p>	<p>1.1. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:</p> <p>(a) “Applicable Law” means the laws and any other instruments having the force of law in the India, as they may be issued and in force from time to time.</p> <p>(b) “CEO” means the Chief Executive Officer of the Lucknow Smart City Limited.</p> <p>(c) “Client” means Chief Executive officer of Lucknow Smart City Limited, the implementing agency that signs the Contract for the Services with the selected Consultant.</p> <p>(d) “Consultant” means a legally-established professional consulting firm or entity selected by the Client to provide the Services under the signed Contract.</p> <p>(e) “Contract” means the legally binding written agreement signed between the Client and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).</p> <p>(f) “Day” means a working day unless indicated otherwise.</p> <p>(g) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.</p> <p>(h) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.</p> <p>(i) “Foreign Currency” means any currency other than the currency of the Client’s country.</p> <p>(j) “GCC” means these General Conditions of Contract.</p> <p>(k) “LSCL” means Lucknow Smart City Limited.</p> <p>(l) “GoUP” means the Government of Uttar Pradesh</p> <p>(m) “GoI” means the Government of India.</p> <p>(n) “INR or Rs.” means Indian Rupees</p>
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	<p>(o) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for the performance of the Contract.</p> <p>(p) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Consultant’s proposal.</p> <p>(q) “Local Currency” means the currency of the Client’s country, i.e. Indian Rupees.</p> <p>(r) “Non-Key Expert(s)” means an individual professional and support staff provided by the Consultant to perform the Services or any part thereof under the Contract.</p> <p>(s) “Party” means the Client or the Consultant, as the case may be, and “Parties” means both of them.</p> <p>(t) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.</p> <p>(u) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.</p> <p>(v) “SPV” means Special Purpose vehicle which is <b>Lucknow Smart City Limited</b></p> <p>(w) “Third Party” means any person or entity other than the Government, the Client, and the Consultant.</p>
<p><b>2. Relationship between the Parties</b></p>	<p>2.1. Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.</p>
<p><b>3. Law Governing Contract</b></p>	<p>3.1. This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law of the Land.</p>
<p><b>4. Language</b></p>	<p>4.1. This Contract has been executed in the language specified in the <b>SCC</b>, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.</p>

<b>5. Headings</b>	5.1. The headings shall not limit, alter or affect the meaning of this Contract.
<b>6. Communications</b>	<p>6.1. Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the <b>SCC</b>.</p> <p>6.2. A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the <b>SCC</b>.</p>
<b>7. Location</b>	7.1. The Services shall be performed at such locations as are specified in <b>Appendix A</b> hereto and, where the location of a particular task is not so specified, at such locations, whether in the Government's country or elsewhere, as the Client may approve.
<b>8. Authority of Member in Charge</b>	8.1. In case the Consultant is a Joint Venture, the members hereby authorize the member specified in the <b>SCC</b> to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.
<b>9. Authorized Representatives</b>	9.1. Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the <b>SCC</b> .
<b>10. Corrupt and Fraudulent Practices</b>	10.1. The Client requires compliance with the policy in regard to corrupt and fraudulent practices as set forth in <b>Attachment 1</b> to the GCC.
<p>a.</p> <p style="text-align: center;"><b>Commissions and Fees</b></p>	10.2. The Client requires the Consultant to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract and/or sanctions by the Bank.

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

<b>11. Effectiveness of Contract</b>	11.1. This Contract shall come into force and effect on the date (the "Effective Date") of the Client's notice to the Consultant instructing the Consultant to begin carrying out the Services. This
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	notice shall confirm that the effectiveness conditions, if any, listed in the <b>SCC</b> have been met.
<b>12. Termination of Contract for Failure to Become Effective</b>	12.1. If this Contract has not become effective within such time period after the date of Contract signature as specified in the <b>SCC</b> , either Party may, by not less than twenty two (22) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.
<b>13. Commencement of Services</b>	13.1. The Consultant shall confirm availability of Key Experts and begin carrying out the Services not later than the number of days after the Effective Date specified in the <b>SCC</b> .
<b>14. Expiration of Contract</b>	14.1. Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the <b>SCC</b> .
<b>15. Entire Agreement</b>	15.1. This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.
<b>16. Modifications or Variations</b>	16.1. Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
<b>17. Force Majeure</b>	
<b>a. Definition</b>	<p>17.1. For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.</p> <p>17.2. Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party’s Experts or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.</p> <p>17.3. Force Majeure shall not include insufficiency of funds or</p>

	failure to make any payment required hereunder.
<b>b. No Breach of Contract</b>	17.4. The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.
<b>c. Measures to be Taken</b>	<p>17.5. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.</p> <p>17.6. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.</p> <p>17.7. 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>17.8. During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:</p> <ul style="list-style-type: none"> <li>(a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or</li> <li>(b) continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.</li> </ul> <p>17.9. In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 48 &amp; 49.</p>
<b>18. Suspension</b>	18.1. The Client may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice

	<p>of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.</p>
<p><b>19. Termination</b></p>	<p>19.1 This Contract may be terminated by either Party as per provisions set up below:</p>
<p><b>a. By the Client</b></p>	<p>19.1.1 The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence the Client shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):</p> <ul style="list-style-type: none"> <li>(a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;</li> <li>(b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;</li> <li>(c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 49.1;</li> <li>(d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;</li> <li>(e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;</li> <li>(f) If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 13.</li> </ul> <p>19.1.2 Furthermore, if the Client determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Client may, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.</p>
<p><b>b. By the Consultant</b></p>	<p>19.1.3 The Consultant may terminate this Contract, by not less than thirty (30) calendar days' written notice to the Client, in case of the occurrence of any of the events specified in</p>

	<p>paragraphs (a) through (d) of this Clause.</p> <p>(a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clauses GCC 49.1 within ninety (90) calendar days after receiving written notice from the Consultant that such payment is overdue.</p> <p>(b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.</p> <p>(c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 49.1.</p> <p>(d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant's notice specifying such breach.</p>
<p><b>c. Cessation of Rights and Obligations</b></p>	<p>19.1.4 Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC 22, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GCC 25, and (iv) any right which a Party may have under the Applicable Law.</p>
<p><b>d. Cessation of Services</b></p>	<p>19.1.5 Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by Clauses GCC 27 or GCC 28.</p>
<p><b>e. Payment upon Termination</b></p>	<p>19.1.6 Upon termination of this Contract, the Client shall make the following payments to the Consultant:</p> <p>(a) remuneration for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures for expenditures actually incurred prior to the effective date of termination; and pursuant to Clause</p>

	<p>42;</p> <p>(b) in the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.</p>
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**C. OBLIGATIONS OF THE CONSULTANT**

<b>20. General</b>	
<b>a. Standard of Performance</b>	<p>20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Client, and shall at all times support and safeguard the Client’s legitimate interests in any dealings with the third parties.</p> <p>20.2 The Consultant shall employ and provide such qualified and experienced Experts as are required to carry out the Services.</p> <p>20.3 The Consultant shall not subcontract any part of the Services.</p>
<b>b. Law Applicable to Services</b>	<p>20.4 The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts, comply with the Applicable Law.</p> <p>20.5 Throughout the execution of the Contract, the Consultant shall comply with the import of goods and services prohibitions in the Client’s country when</p> <p style="padding-left: 40px;">(a) as a matter of law or official regulations, the Client’s country prohibits commercial relations with that country;</p> <p>20.6 The Client shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.</p>
<b>21. Conflict of Interests</b>	<p>21.1 The Consultant shall hold the Client’s interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.</p>
<b>a. Consultant Not to Benefit from Commissions, Discounts, etc.</b>	<p>21.1.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 41 through 46) shall constitute the Consultant’s only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Consultant shall not accept for its own</p>



	<p>benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that the Experts and agents of either of them, similarly shall not receive any such additional payment.</p> <p>21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall comply with the Applicable Guidelines, and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Client.</p>
<b>b. Consultant and Affiliates Not to Engage in Certain Activities</b>	<p>21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or non-consultingservices resulting from or directly related to the Consultant's Services for the preparation or implementation of the project, unless otherwise indicated in the <b>SCC</b>.</p>
<b>c. Prohibition of Conflicting Activities</b>	<p>21.1.4 The Consultant shall not engage, and shall cause its Experts not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.</p>
<b>d. Strict Duty to Disclose Conflicting Activities</b>	<p>21.1.5 The Consultant has an obligation and shall ensure that its Experts shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.</p>
<b>22. Confidentiality</b>	<p>22.1 Except with the prior written consent of the Client, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or as a result of, the Services.</p>
<b>23. Liability of the Consultant</b>	<p>23.1 Subject to additional provisions, if any, set forth in the <b>SCC</b>, the Consultant's liability under this Contract shall be as determined under the Applicable Law.</p>
<b>24. Insurance to be taken out by the Consultant</b>	<p>24.1 The Consultant (i) shall take out and maintain, at its own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified in the <b>SCC</b>, and (ii) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the</p>

	current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.
<b>25. Accounting, Inspection and Auditing</b>	<p>25.1 The Consultant shall keep accurate and systematic accounts and records in respect of the Services in such form and detail as will clearly identify relevant time changes and costs.</p> <p>25.2. The Consultant shall permit, the Client and/or persons appointed by the Client to inspect the Site and/or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the Client if requested by the Client. The Consultant's attention is drawn to Clause GCC 10 which provides, inter alia, that acts intended to materially impede the exercise of the Client's inspection and audit rights provided for under this Clause GCC25.2 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility under the Client's prevailing sanctions procedures.)</p>
<b>26. Reporting Obligations</b>	26.1 The Consultant shall submit to the Client the reports and documents specified in <b>Appendix A</b> , in the form, in the numbers and within the time periods set forth in the said Appendix.
<b>27. Proprietary Rights of the Client in Reports and Records</b>	<p>27.1 Unless otherwise indicated in the <b>SCC</b>, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client.</p> <p>27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Client's prior written approval to such agreements, and the Client shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the <b>SCC</b>.</p>
<b>28. Equipment, Vehicles and Materials</b>	28.1 Equipment, vehicles and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the

	<p>Client an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Client's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.</p> <p>28.2 Any equipment or materials brought by the Consultant or its Experts into the Client's country for the use either for the project or personal use shall remain the property of the Consultant or the Experts concerned, as applicable.</p>
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**D. CONSULTANT'S EXPERTS**

<p><b>29. Description of Key Experts (Core Team)</b></p>	<p>29.1 The title, agreed job description, minimum qualification and time-input estimates to carry out the Services of each of the Consultant's Key Experts are described in <b>Appendix B</b>.</p> <p>29.2 If required to comply with the provisions of Clause GCC 20a, adjustments with respect to the estimated time-input of Key Experts set forth in <b>Appendix B</b> may be made by the Consultant by a written notice to the Client, provided (i) that such adjustments shall not alter the original time-input estimates for any individual by more than 10% or one week, whichever is larger; and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GCC 41.2.</p> <p>29.3 If additional work is required beyond the scope of the Services specified in <b>Appendix A</b>, the estimated time-input for the Key Experts may be increased by agreement in writing between the Client and the Consultant. In case where payments under this Contract exceed the ceilings set forth in Clause GCC 41.1, the Parties shall sign a Contract amendment.</p>
<p><b>30. Replacement of Key Experts</b></p>	<p>30.1 Except as the Client may otherwise agree in writing, no changes shall be made in the Key Experts.</p> <p>30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.</p>
<p><b>31. Approval of Additional Key Experts</b></p>	<p>31.1 If during execution of the Contract, additional Key Experts are required to carry out the Services, the Consultant shall submit to the Client for review and approval a copy of their Curricula Vitae (CVs). If the Client does not object in writing (stating the reasons for the objection) within twenty two (22) days from the date of</p>

	<p>receipt of such CVs, such additional Key Experts shall be deemed to have been approved by the Client.</p> <p>The rate of remuneration payable to such new additional Key Experts shall be based on the rates for other Key Experts position which require similar qualifications and experience.</p>
<p><b>32. Removal of Experts</b></p>	<p>32.1 If the Client finds that any of the Experts has committed serious misconduct or has been charged with having committed a criminal action, or shall the Client determine that Consultant's Expert have engaged in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Services, the Consultant shall, at the Client's written request, provide a replacement.</p> <p>32.2 In the event that any of Key Experts, Non-Key Experts, and support staff is found by the Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Consultant to provide a replacement.</p> <p>32.3 Any replacement of the removed Experts shall possess better qualifications and experience and shall be acceptable to the Client.</p>
<p><b>33. Replacement/ Removal of Experts – Impact on Payments</b></p>	<p>33.1 Except as the Client may otherwise agree, (i) the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Experts provided as a replacement shall not exceed the remuneration which would have been payable to the Experts replaced or removed.</p>
<p><b>34. Working Hours, Overtime, Leave, etc.</b></p>	<p>34.1 Working hours and holidays for Experts are set forth in <b>Appendix B</b>. To account for travel time to/from the Client's country, experts carrying out Services inside the Client's country shall be deemed to have commenced or finished work in respect of the Services such number of days before their arrival in, or after their departure from, the Client's country as is specified in <b>Appendix B</b>.</p> <p>34.2 The Experts shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in <b>Appendix B</b>, and the Consultant's remuneration shall be deemed to cover these items.</p> <p>34.3 Any taking of leave by Key Experts shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and or impact adequate supervision of the Services.</p>

**E. OBLIGATIONS OF THE CLIENT**

<p><b>35. Assistance and</b></p>	<p>35.1 Unless otherwise specified in the <b>SCC</b>, the Client shall use its best efforts to:</p>
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<p><b>Exemptions</b></p>	<ul style="list-style-type: none"> <li>(a) Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.</li> <li>(b) Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Client's country while carrying out the Services under the Contract.</li> <li>(c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents.</li> <li>(c) Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.</li> <li>(d) Assist the Consultant and the Experts employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in the Client's country according to the applicable law in the Client's country.</li> <li>(e) Assist the Consultant and the Experts of either of them with obtaining the privilege, pursuant to the applicable law in the Client's country, of bringing into the Client's country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.</li> <li>(f) Provide to the Consultant any such other assistance as may be specified in the <b>SCC</b>.</li> </ul>
<p><b>36. Access to Project Site</b></p>	<p>36.1 The Client warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the wilful default or negligence of the Consultant or the Experts of either of them.</p>
<p><b>37. Change in the Applicable Law Related to Taxes and Duties</b></p>	<p>37.1 If, after the date of this Contract, there is any change in the applicable law in the Client's country with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between</p>

	the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GCC 41.1
<b>38. Services, Facilities and Property of the Client</b>	<p>38.1 The Client shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (<b>Appendix A</b>) at the times and in the manner specified in said <b>Appendix A</b>.</p> <p>38.2 In case that such services, facilities and property shall not be made available to the Consultant as and when specified in <b>Appendix A</b>, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GCC 41.3.</p>
<b>39. Counterpart Personnel</b>	<p>39.1 The Client shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Client with the Consultant's advice, if specified in <b>Appendix A</b>.</p> <p>39.2 If counterpart personnel are not provided by the Client to the Consultant as and when specified in <b>Appendix A</b>, the Client and the Consultant shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to Clause GCC 41.3.</p> <p>39.3 Professional and support counterpart personnel, excluding Client's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.</p>
<b>40. Payment Obligation</b>	40.1 In consideration of the Services performed by the Consultant under this Contract, the Client shall make such payments to the Consultant and in such manner as is provided by GCC F below.

#### **F. PAYMENTS TO THE CONSULTANT**

<b>41. Ceiling Amount</b>	<p>41.1 An estimate of the cost of the Services is set forth in <b>Appendix C</b> (Remuneration) and <b>Appendix D</b> (Reimbursable expenses).</p> <p>41.2 Payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in the <b>SCC</b>.</p>
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	<p>41.3 For any payments in excess of the ceilings specified in GCC41.2, an amendment to the Contract shall be signed by the Parties referring to the provision of this Contract that evokes such amendment.</p>
<p><b>42. Remuneration and Reimbursable Expenses</b></p>	<p>42.1 The Client shall pay to the Consultant (i) remuneration that shall be determined on the basis of time actually spent by each Expert in the performance of the Services after the date of commencing of Services or such other date as the Parties shall agree in writing; and (ii) reimbursable expenses that are actually and reasonably incurred by the Consultant in the performance of the Services or as specified in the SCC.</p> <p>42.2 All payments shall be at the rates set forth in <b>Appendix C</b> and <b>Appendix D</b>.</p> <p>42.3 Unless the <b>SCC</b> provides for the price adjustment of the remuneration rates, said remuneration shall be fixed for the duration of the Contract.</p> <p>42.4 The remuneration rates shall cover: (i) such salaries and allowances as the Consultant shall have agreed to pay to the Experts as well as factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads), (ii) the cost of backstopping by home office staff not included in the Experts' list in <b>Appendix B</b>, (iii) the Consultant's profit, and (iv) any other items as specified in the <b>SCC</b>.</p>
<p><b>43. Taxes and Duties</b></p>	<p>43.1 The Consultant and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in the <b>SCC</b>.</p> <p>43.2 As an exception to the above and as stated in the <b>SCC</b>, all local identifiable indirect taxes (itemized and finalized at Contract negotiations) are reimbursed to the Consultant or are paid by the Client on behalf of the Consultant.</p>
<p><b>44. Currency of Payment</b></p>	<p>44.1 Any payment under this Contract shall be made in the currency(ies) specified in the <b>SCC</b>.</p>
<p><b>45. Mode of Billing and Payment</b></p>	<p>45.1 Billings and payments in respect of the Services shall be made as follows:</p> <p>(a) <u>Advance payment</u>. Within the number of days after the Effective Date, the Client shall pay to the Consultant an advance payment as specified in the <b>SCC</b>. Unless otherwise indicated in the <b>SCC</b>, an advance payment shall be made against an advance payment bank guarantee acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the <b>SCC</b>. Such guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in <b>Appendix E</b>, or in such other form as the</p>

	<p>Client shall have approved in writing. The advance payments will be set off by the Client in equal instalments against the statements for the number of months of the Services specified in the <b>SCC</b> until said advance payments have been fully set off.</p> <p>(b) <u>The Itemized Invoices.</u> As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time interval otherwise indicated in the <b>SCC</b>, the Consultant shall submit to the Client, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable pursuant to Clauses GCC 44 and GCC 45 for such interval, or any other period indicated in the <b>SCC</b>. Separate invoices shall be submitted for expenses incurred in foreign currency and in local currency. Each invoice shall show remuneration and reimbursable expenses separately.</p> <p>(c) The Client shall pay the <b>Consultant's invoices within sixty (60) days after the receipt by the Client of such itemized invoices with supporting documents.</b> Only such portion of an invoice that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Client may add or subtract the difference from any subsequent payments.</p> <p>(d) <u>The Final Payment</u> .The final payment under this Clause shall be made only after the final report and a final invoice, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final invoice shall be deemed approved by the Client as satisfactory ninety (90) calendar days after receipt of the final report and final invoice by the Client unless the Client, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final invoice.The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount that the Client has paid or has caused to be paid in accordance with this Clause in excess of the amounts payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Client within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Client for reimbursement must be made within 90 (ninety) days after receipt by the Client of a final report and a final invoice approved by the Client in accordance with the above.</p> <p>(e) All payments under this Contract shall be made to the accounts of the Consultant specified in the <b>SCC</b>.</p>
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	(f) With the exception of the final payment under (d) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.
<b>46. Interest on Delayed Payments</b>	46.1 If the Client had delayed payments beyond sixty (60) days after the due date stated in Clause GCC 45.1 (c), interest shall be paid to the Consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the <b>SCC</b> .

### G. FAIRNESS AND GOOD FAITH

<b>47. Good Faith</b>	47.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.
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### H. SETTLEMENT OF DISPUTES

<b>48. Amicable Settlement</b>	<p>48.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.</p> <p>48.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 49.1 shall apply.</p>
<b>49. Dispute Resolution</b>	49.1 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the provisions specified in the <b>SCC</b> .



## II. General Conditions

### Attachment 1: Corrupt and Fraudulent Practices

- 1.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the Client shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “Prohibited Practices”) in the Selection Process. In such an event, the Client shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Performance Security, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter alia*, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Applicant’s Proposal.
- 1.2 Without prejudice to the rights of the Client under Clause 6.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, if an Applicant or Consultant, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Applicant or Consultant shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Applicant or Consultant, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3 For the purposes of this Clause, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Agreement or arising therefrom, 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 Authority, shall be deemed to

constitute influencing the actions of a person connected with the Selection Process; or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the 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 consultant/ adviser of the Client in relation to any matter concerning the Project;

- (b) “fraudulent practice” means a misrepresentation or omission 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 persons or property to influence any person’s participation or action in the Selection Process;
- (d) “collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party<sup>1</sup>;
- (e) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by the Authority 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
- (f) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

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<sup>1</sup> For the purpose of this sub-paragraph, “parties” refers to participants in the procurement or selection process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish prices at artificial, non-competitive levels, or are privy to each other’s bid prices or other conditions.

### III. Special Conditions of Contract

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

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(b) and 3.1	<b>The Contract shall be construed in accordance with the law of the Land</b>
4.1	<b>The language is: English</b>
6.1 and 6.2	<p><b>The addresses are:</b></p> <p>Client :</p> <p style="padding-left: 40px;"><b>Lucknow Smart City Limited</b> Lucknow Nagar Nigam Mukhyalaya, Trilokinath Marg, Lalbagh, Lucknow</p> <p>Attention : _____</p> <p>Facsimile : _____</p> <p>E-mail (where permitted): _____</p> <p>Consultant : _____</p> <p>Attention : _____</p> <p>Facsimile : _____</p> <p>E-mail (where permitted) : _____</p>
8.1	<p><i>[Note: If the Consultant consists only of one entity, state "N/A";</i> <i>OR</i> <i>If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Clause SCC6.1 should be inserted here. ]</i></p> <p><b>The Lead Member on behalf of the JV is</b> _____ _____ <i>[insert name of the lead member]</i></p>
9.1	<p><b>The Authorized Representatives are:</b></p> <p><b>For the Client:</b> <b>[Insert the name, title/ designation, Phone Number, mail id]</b></p> <p><b>For the Consultant:</b> <b>[Insert the name, title/ designation, Phone Number, mail id].</b></p>
11.1	<p><b>The effectiveness conditions are the following:</b> Date <b>[insert date]</b> as per the approval of the <b>[Insert name of the SPV]</b></p>

<b>Number of GC Clause</b>	<b>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</b>
12.1	<p><b>Termination of Contract for Failure to Become Effective:</b></p> <p>The time period shall be 30 (Thirty) Days form the date of effectiveness of the contract.</p>
13.1	<p><b>Commencement of Services:</b></p> <p>The number of days shall be15(fifteen) Days</p> <p>Confirmation of Key Experts' availability to start the Assignment shall be submitted to the Client in writing as a written statement signed by each Key Expert.</p>
14.1	<p><b>Expiration of Contract:</b></p> <p>The time period shall be 36months (03(three) Years), which may be extended on mutual consent till the Smart City Mission Period on the successful performance of the Consultant.</p>
21 b.	<p>The Client reserves the right to determine on a case-by-case basis whether the Consultant and/or Sub consultant should be disqualified from providing goods, works or non-consulting services due to a conflict of a nature described in Clause GCC 21.1.3 : <b>Yes</b></p>

23.1	<p>The following limitation of the Consultant's Liability towards the Client can be subject to the Contract's negotiations:</p> <p><b>Limitation of the Consultant's Liability towards the Client:</b></p> <p><b>(a)</b> Except in the case of gross negligence or wilful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Client's property, shall not be liable to the Client:</p> <ul style="list-style-type: none"> <li>(i) for any indirect or consequential loss or damage; and</li> <li>(ii) for any direct loss or damage that exceeds two times the total value of the Contract;</li> </ul> <p><b>(b) This limitation of liability shall not</b></p> <ul style="list-style-type: none"> <li>(i) 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;</li> <li>(ii) be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the Applicable Law in Client's Country.</li> </ul>
24.1	<p><b>The insurance coverage against the risks shall be as follows:</b></p> <p><b>(a) Professional liability insurance, with a minimum coverage of equal to the value of the Contract Price;</b></p> <p>(b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Client's country by the Consultant or its Experts, with a minimum coverage as per Indian Motor Vehicle Act 1988 and any amendments thereof.</p> <p>(c) Third Party liability insurance, with a minimum coverage of <i>in accordance with the applicable law in the Client's country.</i></p> <p>(d) employer's liability and workers' compensation insurance in respect of the experts in accordance with the relevant provisions of the applicable law in the Client's country, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and</p> <p>(e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.</p>

<p><b>27.2</b></p>	<p>The Consultant shall not use these documents and software for purposes unrelated to this Contract without the prior written approval of the Client.</p>
<p><b>41.2</b></p>	<p><b>The ceiling in local currency is: _____ [insert amount and currency] exclusive of local indirect taxes (Service Tax). The amount of local indirect taxes (Service Tax) are _____ [ Insert the Amount]</b></p>
<p><b>42.1</b></p>	<p><b>(a) The payment of the PMC will be made on a monthly basis as follows:</b></p> <p>The payment including remuneration of PMC shall be made on a monthly basis on submission of Monthly Progress Report and invoices by the PMC. The PMC will submit Monthly Progress Report &amp; invoices in the first week of the subsequent month and the Client will make payments by 15<sup>th</sup> of the month. The monthly payment will be computed as follows:</p> $\text{Accepted Contract Amount (M)} = [\text{insert amount}]$ $\text{Monthly payment to PMC} = \frac{M}{36}$ <p>The payment for the domain experts will be based on actual deployment as per the requirements of the project. <b>The PMC in consultation with the Client shall deploy the Domain Experts as required during the Project.</b></p> <p><b>(b) Any indirect local taxes (Service Tax) chargeable in respect of this Contract for the Services provided by the Consultant shall be reimbursed by the Client to the Consultant.</b></p> <p><b>The amount of such taxes is _____ [insert the amount as finalized at the Contract's negotiations on the basis of the estimates provided by the Consultant in Form FIN-2 of the Consultant's Financial Proposal.]</b></p>
<p><b>42.3</b></p>	<p><b>Price adjustment on the remuneration shall be applicable after 12 months from the date of commencement of the project.</b></p> <p>Payments for remuneration made in INR currency shall be adjusted as follows:</p> <p>(1) The monthly payment will be escalated by 5% on each anniversary of the Commencement of Services.</p>
<p><b>43.1 and 43.2</b></p>	<p><b><u>For domestic consultants / personnel and foreign consultants/personnel who are permanent residents in India</u></b></p> <p>The consultants and the Personnel shall pay the taxes, duties, fees, levies and other impositions levied under the existing, amended or enacted laws during life of this contract and the client shall perform such duties in regard to the deduction of such tax as may be lawfully imposed.</p>



	<p>The Client warrants that the Client shall reimburse the Consultant, and Consultants person for any indirect taxes such as service Tax imposed, under the applicable law in the Client's country, on the Consultant in respect of:</p> <ul style="list-style-type: none"> <li>(a) any payments whatsoever made to the Consultant and the Experts (other than nationals or permanent residents of the Client's country), in connection with the carrying out of the Services;</li> <li>(b) any equipment, materials and supplies brought into the Client's country by the Consultant for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn by them;</li> <li>(c) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Client and which is treated as property of the Client;</li> <li>(d) any property brought into the Client's country by the Consultant or the Experts (other than nationals or permanent residents of the Client's country), or the eligible dependents of such experts for their personal use and which will subsequently be withdrawn by them upon their respective departure from the Client's country, provided that: <ul style="list-style-type: none"> <li>(i) the Consultant and experts shall follow the usual customs procedures of the Client's country in importing property into the Client's country; and</li> <li>(ii) if the Consultant or Experts do not withdraw but dispose of any property in the Client's country upon which customs duties and taxes have been exempted, the Consultant or Experts, as the case may be, (a) shall bear such customs duties and taxes in conformity with the regulations of the Client's country, or (b) shall reimburse them to the Client if they were paid by the Client at the time the property in question was brought into the Client's country.</li> </ul> </li> </ul>
<p><b>Add Clause 43.3</b></p>	<ul style="list-style-type: none"> <li>(a) The client shall reimburse <b>Service Tax</b> payable in India as per Applicable Law. The consultant shall register itself for service tax with appropriate authority in India &amp; shall provide the registration Number to the client.</li> <li>b) Taxes shall be deducted at source as per the prevailing Income Tax Rules.</li> </ul>
<p><b>44.1</b></p>	<p>The currency of payment shall be the following:</p> <p><b>Indian Rupees</b></p>
<p><b>45.1(b)</b></p>	<p><b>The Consultant shall submit to the Client itemized statements at time intervals of Every month. The time sheets supported by Progress</b></p>

	<b>Reports and deliverables as per clause 42.1 of the SCC.</b>
<b>45.1(e)</b>	<p><b>The accounts are:</b></p> <p>for foreign currency: <i>[insert account]</i>. for local currency: <i>[insert account]</i>.</p>
<b>46.1</b>	<b>The interest rate is:</b> London Inter-Bank Offered Rate [LIBOR] plus 2% for foreign currency/local currency.
<b>49.1</b>	<p><b>/Disputes shall be settled by arbitration in accordance with the following provisions:</b></p> <p>1. <u>Selection of Arbitrators.</u> Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three (3) arbitrators, in accordance with the following provisions:</p> <p>(a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to <i>[Chairman (Delhi State Centre), The Institution of Engineers (India), New Delhi]</i> for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names there from, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, <i>Chairman (Delhi State Centre), The Institution of Engineers (India), New Delhi</i> shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.</p> <p>(b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by <i>Registrar, The Indian Council of Arbitration, New Delhi</i>.</p> <p>(c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the <i>Registrar, The Indian Council of Arbitration, New Delhi</i> to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.</p>

	<p>2. <u>Substitute Arbitrators.</u> If for any reason an arbitrator is unable to perform his/her function, a substitute shall be appointed in the same manner as the original arbitrator.</p> <p>3. <u>Nationality and Qualifications of Arbitrators.</u> The sole arbitrator or the third arbitrator appointed pursuant to paragraphs 1(a) through 1(c) above shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant’s home country [<b>Note: If the Consultant consists of more than one entity, add: or of the home country of any of their members or Parties</b>] or of the Government’s country. For the purposes of this Clause, “home country” means any of:</p> <p>(a) the country of incorporation of the Consultant [<b>Note: If the Consultant consists of more than one entity, add: or of any of their members or Parties</b>]; or</p> <p>(b) the country in which the Consultant’s [or any of their members’ or Parties’] principal place of business is located; or</p> <p>(c) the country of nationality of a majority of the Consultant’s [or of any members’ or Parties’] shareholders;</p>
	<p>5. <u>Miscellaneous.</u> In any arbitration proceeding hereunder:</p> <p>(a) proceedings shall, unless otherwise agreed by the Parties, be held in [<b>select a country which is neither the Client’s country nor the Consultant’s country</b>];</p> <p>(b) the <i>English</i> language shall be the official language for all purposes; and</p> <p>(c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.</p>
<p><b>INSERT CLAUSE 50</b></p>	<p>Performance Security</p> <p>(a) The Successful Consultant, for due and faithful performance of its obligations under the Contract Agreement, shall be required to provide a performance Security @ 5% of the accepted Contract amount within 28 (twenty eight) days to the Client through Bank Guarantee acceptable to the Client, of receipt of the Letter of Award from the Authority.</p> <p>(b) The Performance Security shall be issued by Scheduled commercial Bank and from within the jurisdiction of the Country.</p>

	<p>The Performance Security shall be valid until a date 60 days beyond the date of completion of all contractual obligations of the Consultant.</p> <p>(c) The Client shall not make a claim under the Performance Security, except for amounts to which the Client is entitled under the Contract in the event of:</p> <ul style="list-style-type: none"> <li>(i) failure by the Consultant to extend the validity of the Performance Security on extension of time of the contract, in which event the Client may claim the full amount of the Performance Security,</li> <li>(ii) failure by the Consultant to pay the Client an amount due, as either agreed</li> <li>(iii) Claims, Disputes and Arbitration, within 42 days after this agreement or determination,</li> <li>(iv) Circumstances which entitle the Employer to termination under Sub-Clause 19(a) [Termination by the Client], irrespective of whether notice of.</li> </ul> <p>(d) On Completion of the Contractual obligation by the Consultant, The performance security shall be returned to the Consultant within 21 days by the Client.</p>
<p><b>INSERT CLAUSE 51</b></p>	<p><b>Failure to Perform the Contractual Obligations</b></p> <ul style="list-style-type: none"> <li>(i) In the event of total default / failure of the PMC in execution of the services, the Client reserves the right to get the work executed by any other consultancy firm at the risk and cost of the defaulting consultancy firm. Decision of employer is final &amp; binding on the consultancy firm.</li> <li>(ii) In this case liquidated damages @ 0.5%( zero point five percent) of the fee for the cost of balance work upto activities 2 to 5 per week of delay subject to maximum of 10% shall be levied by the [Insert the name of the SPV]</li> <li>(iii) The Client will be responsible for monitoring the PMCs performance and initiate action/liquidated damages for non-compliance with the ToR, wrong/incomplete specification in the bid documents, improper estimate, improper/ poor progress monitoring, not informing in advance about necessary actions to be taken by the Implementing Partner/Agency(ies), etc.</li> </ul>

## IV. Appendices

### APPENDIX A – TERMS OF REFERENCE

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

*Insert the text based on the Section 7 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 through TECH-5 in the Consultant's Proposal. Highlight the changes to Section 7 of the RFP]*

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

### APPENDIX B – KEY EXPERTS

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

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

### APPENDIX C – REMUNERATION COST ESTIMATES

1. Monthly rates for the Experts:

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

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

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

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

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

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

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

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

1 Expressed as percentage of 1

2 Expressed as percentage of 4

\* If more than one currency, add a table

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name and Title: \_\_\_\_\_





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## APPENDIX D – REIMBURSABLE EXPENSES COST ESTIMATES

1. *[Insert the table with the reimbursable expenses rates. The table shall be based on [Form FIN-4] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to [Form FIN-4] at the negotiations or state that none has been made.*

2. *All reimbursable expenses shall be reimbursed at actual cost, unless otherwise explicitly provided in this Appendix, and in no event shall reimbursement be made in excess of the Contract amount. ]*

## APPENDIXE—FORM OF PERFORMANCE GUARANTEE

### Performance Guarantee

[The bank, as requested by the successful Bidder, shall fill in this form in accordance with the instructions indicated]

Date: [insert date (as day, month, and year) of Bid Submission]

Contract No. and title: [insert no. and title of bidding process]

Bank's Branch or Office: [insert complete name of Guarantor]

Beneficiary: [insert complete name of Purchaser]

**Performance Guarantee No.:** [insert Performance Guarantee number]

We have been informed that [insert complete name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. [insert number] dated [insert day and month], [insert year] with you, for the supply of [description of Equipment and Related Services] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.

At the request of the Consultant, we hereby irrevocably undertake to pay you any sum(s) not exceeding [insert amount(s)<sup>10</sup> in figures and words] upon receipt by us of your first demand in writing declaring the Consultant to be in default under the Contract, without cavil or argument, or your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This Guarantee shall expire no later than the [insert number] day of [insert month] [insert year]<sup>11</sup>, and any demand for payment under it must be received by us at this office on or before that date.

[In preparing this Guarantee, the Purchaser might consider adding the following text to the Form]

We agree to time extension of this Guarantee for a period not to exceed [insert time period], in response to the Purchaser's written request for such extension, such request to be presented to us before the expiry of the Guarantee."

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

[Signatures of authorized representatives of the bank and the Contractor]