

**National Highways and Infrastructure  
Development Corporation**  
(MINISTRY OF ROAD TRANSPORT AND HIGHWAYS)  
GOVT. OF INDIA

**NATIONAL COMPETITIVE BIDDING**  
(THROUGH E-TENDERING MODE)

**“Consultancy Services for 09 Months for Supervision of “Restoration and Repairs of NH-129A from 7th mile junction, Dimapur to Mhaikam (Km 0.0 to 16.0) [Length=16 Km] and from Manipur/Nagaland Border (Dzuko Bridge) to Mhainamtsi (Km 0.0 to Km 39.0) [Length=39 Km] in the State of Nagaland in the FY 2020-21.”**

**REQUEST FOR PROPOSAL  
(RFP)  
JULY 2020**

**R.O. Kohima (Nagaland)  
National Highway & Infrastructure Development Corporation Ltd.  
PWD Rest House, PWD Colony,  
Kohima, Nagaland-797001  
Email: [edpkohimaoffice@gmail.com](mailto:edpkohimaoffice@gmail.com)**

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## SECTION - 1

### LETTER OF INVITATION (LOI/ NIT)

Sub: **Consultancy Services for 09 Months for supervision of “Restoration and Repairs of NH-129A from 7th mile junction, Dimapur to Mhaikam (Km 0.0 to 16.0) [Length=16 Km] and from Manipur/Nagaland Border (Dzuko Bridge) to Mhainamtsi (Km 0.0 to Km 39.0) [Length=39 Km] in the State of Nagaland in the FY 2020-21.”**

Sl. No.	Section	Length of the packages (Approx. in Km.)
1	Consultancy Services for 09 Months for supervision of “Restoration and Repairs of NH-129A from 7th mile junction, Dimapur to Mhaikam (Km 0.0 to 16.0) [Length=16 Km] and from Manipur/Nagaland Border (Dzuko Bridge) to Mhainamtsi (Km 0.0 to Km 39.0) [Length=39 Km] in the State of Nagaland in the FY 2020-21.”	55

Sir,

1. National Highways And Infrastructure Development Corporation Limited (NHIDCL) is taking up the work of Maintenance & Repair of above stated Section of National Highways. NHIDCL invites proposals from the experienced consultants for rendering consultancy services for supervision of Maintenance & Repair Contract, on the aforesaid section.
2. Proposals are invited from consultancy firms in accordance with the Request for Proposal (RFP) document attached herewith through INFRACON & E-Tender portal. A Firm will be selected under Quality cum Cost Based Selection (QCBS) procedures as described in this RFP, which comprises the following.

Section 1	:	Letter of Invitation (LOI) / NIT
Section 2	:	Information to Consultants and Data sheet
Section 3	:	Technical Proposal (Standard Forms)
Section 4	:	Financial Proposal (Standard Forms)
Section 5	:	Terms of Reference (TOR)
Section 6	:	Standard Form of Contract Agreement and General Conditions of Contract

Separate Technical and Financial proposals as per the requirement of the RFP documents are to be submitted. The technical proposals will be evaluated first. Financial proposals of only those firms will be opened and evaluated, whose technical proposals meet the qualifying requirements.

4. DELETED

5. The Applicants shall submit the details on downloaded documents as ‘ORIGINALS’ in hard bound form (if possible) with all pages numbered serially and by giving an index of submissions on or before 07/08/2020 (upto 1500 hrs.) Hardbound implies such binding between two covers through stitching or otherwise whereby it may not be possible to replace any paper without disturbing the document and pages. The ‘ORIGINALS’ submitted in other form like spiral bound, loose form, etc. will be rejected.
6. The Letter of Invitation (LOI) and Term of Reference (TOR) including Request Proposal (RFP) is available online on e-tender portal of NIC i.e. <https://eprocure.gov.in>. The details can also be viewed on NHIDCL web site [www.nhidcl.com](http://www.nhidcl.com). Any corrigendum/clarification will be available on the e-procurement web site <https://eprocure.gov.in> and NHIDCL website [www.nhidcl.com](http://www.nhidcl.com). There may not be separate advertisement. The interested consultancy firms may download the RFP documents from the above mentioned website w.e.f. 17.07.2020 to 06.08.2020 up to 1500 hrs. The Consultant who downloads the RFP documents from the website will be required to pay the non-refundable fee of Rs. 5,000/- at the time of the submission of the Bid proposal, through RTGS into bank a/c no “50100338508023” maintained in the name of “R O KOHIMA NHIDCL ADM EXPENSES ACCOUNT” with HDFC Bank, Kohima, Nagaland address having IFSC code HDFC0002015. The RFP will be invited through e-tender (online bid submission) and by using the INFRACON\* portal.

\*In order to make the evaluation process more objective, user friendly and transparent, NHIDCL has developed INFRACON portal ([www.infracon.nic.in](http://www.infracon.nic.in)) which is a comprehensive National Portal for Infrastructure Consultancy firms & Key Personnel. The Portal has facility to host Consulting Firms’ & Personnel Credentials online with linkage to Aadhar & Digilocker for data storage, validation & purity. The Information available on the portal would also be made available in Public Domain.

7. Deleted

8. The following schedule of dates is to be followed for this assignment:

Bid Document /NIT Publishing Date	:	18/07/2020 (1100hrs)
Bid Document Download/Start date Star	:	18/07/2020 (1100hrs)
Clarification Start Date (Pre bid queries)	:	18/07/2020 (1100 hrs)
Clarification End Date( Last date for receipt of pre bid query)	:	25/07/2020 (1700 hrs)
Pre bid meeting	:	28/07/2020 (1500 hrs)

Bid Submission start Date	:	30/07/2020 (1100 hrs)
Bid submission End Date (online / physical Copy)	:	07/08/2020 (1500 hrs)
Opening Date of Technical Bid	:	08/08/2020 (1530 hrs)
Date of uploading of list of Technically Qualified Applicants	:	<b>To be intimated later</b>
Date of Opening of Financial Bids of Qualified Applicants	:	To be intimated with the result of technical evaluation

**\*After the bid submission on CPPP Portal, the bidders are also requested to send the confirmation mail regarding bid submission between 07.08.2020 (1500 Hrs) to 08.08.2020 (1100 Hrs) on below mentioned e-mail address.**

The proposal, or any queries or clarification on the RFP document, shall be submitted at the following address:

Address of Employer:

ATTN: M.S. Deol.  
DESIGNATION: Executive Director (P)  
ADDRESS: PWD. Colony, PWD Rest House,  
Kohima, Nagaland  
TEL. NO:  
E-MAIL ADDRESS: [edpkohimaoffice@gmail.com](mailto:edpkohimaoffice@gmail.com)

Yours faithfully,  
Executive Director (P)  
NATIONAL HIGHWAYS AND INFRASTRUCTURE  
DEVELOPMENT CORPORATION LIMITED (NHIDCL)  
RO-Kohima, Nagaland

## SECTION-2

### INFORMATION TO CONSULTANTS

#### 2.1 INTRODUCTION

2.1.1 NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED (NHIDCL) has taken up the following section of Two lane National Highway for Maintenance & Repair Contract for a period of 9 Months :-

<b>Package No.</b>	<b>Section</b>	<b>Length of the package (Approx. in km.)</b>
NHIDCL/RO-Kohima/DP-SC/Nagaland/NH-2/2020-21/01	<b>Consultancy Services for 09 Months for supervision of “Restoration and Repairs of NH-129A from 7th mile junction, Dimapur to Mhaikam (Km 0.0 to 16.0) [Length=16 Km] and from Manipur/Nagaland Border (Dzuko Bridge) to Mhainamtsi (Km 0.0 to Km 39.0) [Length=39 Km] in the State of Nagaland in the FY 2020-21.”</b>	55

2.1.2 A brief description of the Assignment and its objectives are given in the enclosed Data Sheet and the Terms of Reference.

2.1.3 The client named in the “Data Sheet” will select a firm from, in accordance with the method of selection indicated in the data sheet.

2.1.4 The consultants are invited to submit a Technical Proposal and a Financial Proposal at the address (if possible) as specified in the Data Sheet for consulting services required for the Assignment named in the Data Sheet. The Proposal will form the basis for selection, contract negotiations and eventually signing of a contract with the selected firm.

2.1.5 To obtain first hand information on the Assignments and on the local conditions, consultants are encouraged to pay a visit to the project sites before submitting a proposal. The Consultants must familiarize themselves with the local conditions and take them into account in preparing the proposal.

2.1.6 Please note that the Client is not bound to accept any or all the proposals submitted without assigning any reason therefore.

2.1.7 The Cost of preparing the proposal and of negotiating the contract, including visits to the Client and the project area, are not reimbursable.

2.1.8. (a) The proposals must be properly signed as detailed below and as per NIT/ITB:

- (i) By the proprietor in case of a proprietary firm.
- (ii) By the partner holding the Power of Attorney in case of a firm in partnership (A certified copy of the Power of Attorney shall accompany the Proposal).
- (iii) By a duly authorized person holding the Power of Attorney in case of a Limited Company or a corporation (A certified copy of the Power of Attorney shall accompany the proposal).

2.1.8. (b) Deleted

2.1.8. (c) The proposals from joint ventures are not allowed.

2.1.9 The project requires that consultants provide professional, objective and impartial advice and at all times hold the Client ' s interests paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests.

2.1.10 It is the NHIDCL policy that the consultants observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the NHIDCL;

- a) defines, for the purposes of this provision, the terms set forth below:
  - i) "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of an official in the selection process or in contract execution; and
  - ii) "Fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Client and includes collusive practices among consultants (prior to or after submission of proposals) designed to establish prices at artificial, noncompetitive levels and to deprive the Client of the benefits of free and open competition.
- b) will reject a proposal for award if it determines that the firm recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- c) will declare a firm ineligible, either indefinitely or for a stated period of time to be allowed to participate or awarded a contract of any assignment of the client if it at any time the client determines that the firm has engaged in corrupt or fraudulent practices in competing for or in executing a contract; and
- d) will have the right to require that, in a contract, a provision be included requiring consultants to permit the NHIDCL to inspect their accounts and records relating to the performance of the contract and to have them audited by authorized representatives of NHIDCL.

## 2.2 CLARIFICATION AND AMENDMENT OF RFP DOCUMENTS

- 2.2.1 To enable the firms to prepare a proposal, they may please find and use the attached Documents.
- 2.2.2 Consultants requiring a clarification of the Documents must notify the Client, in writing, not later than 03 days before the proposal submission date. Any request for clarification in writing or by e-mail must be sent to the Client' s address indicated in the Data Sheet. The Client will respond by e-mail to such requests and copies of the responses will be hosted on web site of NHIDCL.
- 2.2.3 At any time before the submission of proposals, the client may, for any reason, whether at its own initiative or in response to a clarification requested by an invited consulting firm, modify the Documents by amendment. The amendment will be notified in writing or email to all invited consulting firms and will be binding on them. The Client may at its discretion extend the deadline for submission of the proposals.

## 2.3 PREPARATION OF PROPOSAL

Consultants are requested to submit the technical and a financial proposal separately. The proposal shall be written in English language.

### 2.3.1 Technical Proposal

- i). Consultants are expected to examine all terms and instructions included in the Documents. Failure to provide requested information will be at their own risk and may result in rejection of their proposal.
- ii). During preparation of the technical proposal consultants must give particular attention as specified in Data Sheet to the following:
  - a) Majority of the professional staff proposed may preferably be employees of the firm, unless otherwise indicated in the Data Sheet.
  - b) No alternative to key staff may be proposed and only one C.V. shall be submitted for each position. The furnished C.V. shall, inter-alia, include the photo identity with specimen signature, address and the telephone number of the proposed key staff. If one CV is submitted by two or more consultants, no marks shall be given for such CVs.
  - c) A good working knowledge of English Language is essential for key professional staff on this assignment.
  - d) All reports must be in English Language.
  - e) All information provided in the Application is true and correct and all documents accompanying such application are true copies of their originals. If any information/ document is found incorrect, the same shall be treated as corrupt and fraudulent practice as mentioned in Cl. 2.1.10.

- f) In case CV of a person is turned out to be fake / incorrect / inflated during the assignment, the consultancy firms shall have to refund the salary and perks drawn in respect of the person apart from other consequences.

2.3.2 The technical proposal shall include but be not limited to the following:

- i. Proof of Payment against Tender Fee.
- ii. Bid Securing Declaration.
- iii. Firm' s Organization Structure and Relevant Experience as stated in Data Sheet including details of previous experience and project sheets (Form 3B) along with the client certificate.
- iv. Description of Approach Methodology for performing the assignment. (Form 3C)
- v. DELETED
- vi. DELETED
- vii. The composition of the proposed Team and the Tasks Assigned to Individual Members (Form 3-F): The tasks to be assigned to each member of the proposed team should conform to but not be limited to the generalized tasks expected to be performed as per TOR. The consultant should take into account the various stipulations in the TOR and assign the tasks to individual members of the Team. The firm shall designate one of its senior most experienced permanent employees (Engineer) who has thorough understanding & exposure in dealing with road contract agreements as the Engineer for the assignment who shall act as Engineer for the assignment, undertake site visits on quarterly basis and submit a report on performance of its staff. The comments of NHIDCL shall be taken care of as follow up action for such visits. The cost associated with this requirement shall not be paid and the same is incidental. In case of failure to comply, a suitable penalty shall be imposed by NHIDCL. The powers of Engineer and Team Leader shall be submitted to NHIDCL for modifications and approval.
- viii. Curriculum Vitae (C.V.) recently signed with blue ball pen by the proposed key staff and also an authorized official of the Firm. The information shall be as per the format given in form 3-G.
- ix. DELETED
- x. DELETED
- xi. Any additional information requested in data sheet.

- xii. Undertaking regarding correctness of qualification and experience of the key personnel proposed for Form 3-H.
- xiii. The Bidder should submit the Self Evaluation Sheet (Annexure A) in the prescribed format of the proposed Key Personnel.

2.3.3. The Technical Proposal shall not include any financial information.

#### 2.3.4. Financial Proposal

- i) The financial proposal should include all costs associated with the assignment. The financial proposal shall take into account the costs associated with the key personnel, support staff (technical & office), fully furnished office accommodation, transportation etc. as per the work requirement. The format for the financial proposal is given in Section-4. The contract shall be finalized on lump sum basis.

For the 9 months from the date of commencement of services, Consultants shall be paid remuneration as indicated in Form 4C. However, the details furnished in Section-4 will form the basis of evaluation and comparison of the financial bid.

- ii) The financial proposals shall be prepared to cover the tasks mentioned in the TOR and also the tasks required to be carried out in order to meet the objectives.
- iii) The financial proposal shall take into account all tax liabilities (except GST) and cost of insurance specified in the General Conditions of contract. The GST shall be reimbursed by NHIDCL on production of proof containing the assignment name.
- iv) Costs shall be expressed in Indian Rupees. All payments shall also be made in Indian Rupees by the “National Highways And Infrastructure Development Corporation Limited”
- v) Payment for the consultancy services shall be made on monthly basis considering the staff inputs (dates of mobilization/ demobilization) approved in advance by NHIDCL. No claims shall be entertained for short use of inputs projected in Financial Proposals. NHIDCL shall be at liberty to discontinue any position/ staff by giving 7 days notice.

## 2.4 SUBMISSION OF PROPOSALS

- 2.4.1 Please refer procedure for E-bidding: Consultants must submit ‘ORIGINAL’ documents (if possible) as indicated in the “Instruction to Bidders” . Original document will be sealed in an outer envelope, which will bear the address and

information indicated in the Data Sheet/ ITB. The envelope must be clearly marked:

DO NOT OPEN, EXCEPT IN PRESENCE OF THE  
EVALUATION COMMITTEE OF NHIDCL

This outer envelope clearly marked 'ORIGINALS' to RFP documents. The technical and financial proposal must be prepared in indelible ink (blue ball pen) and must be signed by the authorized representative of the consultants. The letter of authorization must be confirmed by a written power of attorney accompanying the proposals. The person or persons signing the proposal must initial all pages of the technical and financial proposal.

- 2.4.2 There should, generally, be no overwriting or cutting in the proposal submitted by the Consultant. The overwriting or cutting if any should be properly initialed by the authorized representative of the company.
- 2.4.3 The completed technical and financial proposal must be submitted on or before the time and date stated in the Data Sheet.
- 2.4.4 The proposal must be valid for the number of days stated in the Data Sheet from the last day of submission during which the firm must maintain the availability of the professional staff proposed for the assignment. The Client will make its best effort to complete negotiations within this period.
- 2.4.5 The Applicants shall submit the details on issued/downloaded Application and in hard bound form (if possible) with all pages numbered serially and by giving an index of submissions. Hardbound implies such binding between two covers through stitching or otherwise whereby it may not be possible to replace any paper without disturbing the document and pages.
- 2.4.6 After the deadline for submission of proposals as per sub-clause 2.4.3 herein, the technical proposal shall be opened.

## 2.5 PROPOSAL EVALUATION

A two-stage procedure will be adopted in evaluating the proposals: (i) a technical evaluation, which will be carried out prior to opening any financial proposal; (ii) The technical proposal should score at least 75 points out of 100 to be considered for financial evaluation, however, the procurement shall be made on quality cum cost based selection with 80-20% for technical and financial scores in accordance with the Clause 2.5.2 respectively among the top five qualifying consultant meeting non-conflict and other eligibility requirements, short listed after technical evaluation.

However, the Technical proposal shall be declared non-responsive if the firm as individual or in Partnership or in association or corporate or limited company has failed to perform in last 3 years on any contract as evidenced by termination of any contract/ expulsion or imposition of a penalty or arbitration award or a judicial pronouncement.

### 2.5.1 Evaluation of Technical Proposal

The evaluation committee appointed by the Client will carry out its evaluation applying the evaluation criteria and point system specified in the Data Sheet. Each responsive proposal will be attributed a Technical Score ( $S_T$ ).

### 2.5.2 Opening and Evaluation of Financial Proposals;

- i) The Financial Proposals shall be opened in the presence of the consultants' authorized representatives (a letter of authorization is a must) who choose to attend. The name of the consultant and the proposed prices shall be read loudly and recorded when the Financial Proposals are opened.
- ii) The Evaluation Committee will determine whether the Financial Proposals are complete, (i.e. whether they have costed all items of the corresponding to RFP/TOR/ Technical Proposals. If not, the client will cost them and add their cost to the initial price) and correct any computational errors. Any conditional offers shall be rejected.
- iii) Deleted.
- iv) In the second stage, the financial evaluation will be carried out. Each Financial Proposal will be assigned a financial score ( $S_F$ ).
- v) For financial evaluation, the total cost indicated in the Financial Proposal, excluding Additional Costs, will be considered.
- vi) The Authority will determine whether the Financial Proposals are complete, unqualified and unconditional. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the firm to be compensated and the liability to fulfill its obligations as per the TOR within the total quoted price shall be that of the Consultant. The lowest financial proposal (FM) will be given a financial score ( $S_F$ ) of 100 points. The financial scores of other proposals will be computed as follows:-

$$S_F = 100 \times F_M/F$$

(F=Amount of Financial Proposal)

- vii) Combined and final evaluation

The proposal will finally be ranked according to their combined technical ( $S_T$ ) and financial ( $S_F$ ) scores as follows:-

$$S = S_T \times T_W + S_F \times F_W$$

Where S is the combined score, and TW and FW are weights assigned to technical proposal and financial proposal that shall be 0.80 and 0.20 respectively. The Evaluation Committee shall determine the order of priority as among these firms on the basis of technical and financial bids and the highest combined scorer (S) shall rank first for award of contract. The Selected Applicant shall be the first ranked applicant. The second ranked Applicant shall be kept in reserve and may be invited for negotiations in case the first ranked Applicant withdraws, or fails to comply with the requirements specified as the case may be.

## 2.6 NEGOTIATIONS

2.6.1 Negotiations will be held at the address indicated in the Data Sheet. The aim is to reach an agreement on all points and sign minutes.

2.6.2 Negotiations will commence with discussion of the Technical Proposal, the proposed methodology (work plan), staffing, interviewing each key personnel to verify certificates/ ascertain his overall suitability / availability and any suggestions made by the firm to improve the TOR. Agreement must then be reached on the final TOR, the staffing and bar charts, which will indicate activities, staff, periods in the field and in the home office, staff months, logistics and reporting. The financial proposal is subject to rationalization. The calling of the key personnel to RO-Kohima for interview shall be at the cost of the consultant. The support staff CVs shall be submitted to GM/DGM, NHIDCL at site after signing the contract for interview and approval.

2.6.3 The Financial Negotiations will include a clarification (if any) of the firm's tax liability in the Client's country, and the manner in which it will be reflected in the contract; and will reflect the agreed technical modifications in the cost of the services. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff (no breakdown of fees) nor other proposed unit rates.

2.6.4 Having selected the Consultant, among other things, on the basis of an evaluation of proposed key personnel, the Client expects to negotiate, within the proposal validity period, a contract on the basis of the key personnel named in the proposal and, prior to contract negotiations, will require assurances that the key personnel will be actually available for the entire duration of the assignment. NHIDCL shall not consider substitutions during contract negotiations except in cases of unexpected delays in the starting date or incapacity of key professional staff for reasons of health. Substitution for any other reason shall attract reduction in the remuneration of the key personnel by 10% for each substitution. All such proposed substitution shall be by equal or better qualified and experienced personnel compared to the originally proposed key personnel.

2.6.5 The Consultant will submit an affidavit of making available all the key personnel mentioned in the proposal for the entire duration of the assignment. The negotiations will conclude with a review of the draft form of the contract. To complete negotiations the Client and the firm will sign the minutes and initial the agreed contract. If negotiations fail, the Client will invite the L2 firm.

## 2.7 AWARD OF CONTRACT

2.7.1 The Contract will be awarded following successful Negotiations through a Letter of Acceptance (LOA) from NHIDCL.

2.7.2 Within 7 days from the date of LOA, the consultant shall furnish a Performance Security in the form of a BG for the amount in the form given in the TOR. The BG shall be initially valid for the duration of the assignment plus 1 month for verification & signing the contract and 1 month for closing the contract. In case the consultant fails to submit the BG within 7 days from the date of LOA, a request may be submitted before ED (P) with justified reason for delay in submission and likely date of submission for the same. For avoidance of doubt, it is made clear that it would be the sole decision of ED(P) to consider or reject the request and the LOA shall be deemed to be treated as cancelled and the firm shall be debarred for a period of 6 months to participate in NHIDCL works.

## 2.8 CONFIDENTIALITY

Information relating to evaluation of proposals and recommendations concerning award shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the winning firm has been notified of award of the contract and contract agreement has been entered.

## 2.9 Disqualification from future participation.

If the consultant fails in successfully completing the negotiations (or) in furnishing the Performance Security after LOA, then such consultant shall not be allowed to participate in future M&R Supervision Consultancy Assignments for a period of one year.

DATE SHEET

INFORMATION TO CONSULTANTS

Reference

- 2.1.2 Objectives and description of the Assignment: The main objective of this assignment is implementation and supervision of Maintenance & Repair Contract in full compliance of scope of work, conditions, specifications and other stipulations of the contract document.
- Description of Assignment/ Services: Consultancy services for Maintenance & Repair Contract. The detailed descriptions of services are mentioned in the Terms of Reference.
- 2.1.3 The name of the Client is: NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED
- The method of selection is: Quality cum Cost Based Selection (QCBS) among the top five qualifying Consultants, meeting non-conflict and other eligibility requirements, short listed after technical evaluation.
- 2.1.4 The address for submission of proposal is “Executive Director (P)
- ADDRESS: PWD Colony, PWD Rest House, Kohima, Nagaland  
(IF POSSIBLE)
- 2.2.2 The consultants to state costs in Indian Rupees.  
Clarification may be requested not later than 03 days before the proposed submission date of RFP. The address for requesting clarification is  
Address of Employer:
- DESIGNATION: Executive Director (P)  
RO-Kohima, Nagaland
- ADDRESS: PWD. Colony, PWD Rest House  
Kohima, Nagaland
- E-MAIL ADDRESS: [edpkohimaoffice@gmail.com](mailto:edpkohimaoffice@gmail.com)
- 2.3.1 (i) The estimated number of professional staff months and their minimum qualification & experience required for the assignment shall be as mentioned in TOR.
- (ii) Reports which are part of the assignment shall be written in English.
- (iii) DELETED

(iv) Separate team/personnel must be proposed for each package; otherwise, all such proposals of the firm shall be rejected.

2.3.2 Relevant Experience implies Experience as Supervision Consultant in National/State Highway construction/maintenance works.

2.4.1 Consultants must submit:  
Technical Proposal, Financial Proposal and ‘ORIGINALS’ (if possible)  
as per ITB Proposals should be submitted in English

The information shall be submitted titled as:

**Consultancy Services for 09 Months for supervision of “Restoration and Repairs of NH-129A from 7th mile junction, Dimapur to Mhaikam (Km 0.0 to 16.0) [Length=16 Km] and from Manipur/Nagaland Border (Dzuko Bridge) to Mhainamtsi (Km 0.0 to Km 39.0) [Length=39 Km] in the State of Nagaland in the FY 2020-21.”**

2.4.2 Proposals must be submitted “online” only not later than the following date and time: 06.08.2020 till 1500 hrs.

2.4.3 The proposal of the Consultant should be valid for 45 days from the last date of submission.

2.4.4 Deleted.

### Evaluation Criteria for Technical Proposals

Note: Last 5 years shall be last 5 financial years excluding the current year.

<u>Sl. No.</u>	<u>Description</u>	<u>Points</u>	<u>Marks proposed by the Bidder</u>	<u>Documents attached at Page Number.</u>
I.	Consultants Average Annual Turnover in last 5 years from Consultancy Assignments (Rs. 3.0 crore or more) [if audited accounts of the financial year preceding the current year are not available, previous 5 years may be shifted accordingly] subject to certification by Statutory Auditor.	5		
II.	Year of incorporation of the Consultancy Firm (5 years or more)	5		
III.	Consultants Relevant experience in last 5 years in supervision of National/State Highway Projects (60 lane km. or more) a) Construction (1 or more) with minimum consultancy fee of Rs. 50 lakhs b) Maintenance (2 or more) with minimum consultancy fee of Rs. 25 Lakhs	15  20		
IV.	Experience in last 5 years in carrying out Road Condition Surveys (2 or more) / preparation of DPR of NH/SH Projects.	5		
V.	Qualification of the Proposed Key Personnel Team Leader cum Highway Engineer	50		
	Total	100		

The weightage given to evaluate qualification and competence of key staff are:

	Weight (%)
General Qualification (15)** ;	20
Training/Technical papers in relevant field (5)	
Relevant Experience and Adequacy for the Assignment	75
Permanent Employment with the firm	5
Total	100

## Sub criteria for qualification of Team leader Cum Resident Engineer

1	General Qualification	20marks (Maximum)
(i)	B.E/B.Tech /A.M.I.E /B.Sc in Civil Engineering	15
(ii)	Post Graduate Degree in Transportation Engineering / Highway Engineering	5
2	Essential Experience	
(a)	Total Professional Experience in roads and Bridges	10years (Minimum)
	Marks for “ Total Professional Experience in handling Highway Contracts.”	25marks (Maximum)
	(i) Marks for threshold	(80%)
	(ii) % increase of marks for every increase in no. of years of experience	6.66% and 20%(max)
(b)	Experience as Team Leader or Resident Engineer in similar capacity in supervision consultancy of M&R works	3 years (Minimum)
	Marks for “Experience as Team Leader or Resident Engineer in similar capacity in supervision consultancy of M&R works	25marks (Maximum)
	(i) Marks for threshold	(80%)
	(ii)% increase of marks for every increase in no. of years of experience	6.66% and20%(max)
(c)	Should have handled as Team Leader or Highway Engineer in similar capacity in supervision consultancy of M&R works	3 Projects (Minimum)
	Marks for “Should have handled as Team Leader or Resident Engineer in similar capacity in supervision consultancy of M&R works	15 marks (Maximum)
	(i) Marks for threshold	(80%)
	(ii) % increase of marks for every increase in no. of Projects	6.66% and 20%(max)
(d)	Should have handled as Team Leader or similar capacity of at least one Projects of project preparation of Highway Projects	1 project (Minimum)
	Marks for “Should have handled as Team Leader or similar capacity of project preparation of Highway Projects	10 marks (Maximum)
	(i) Marks for threshold	(80%)
	(ii) % increase of marks for every increase in no. of Projects.	6.66% and20%(max)

3.	Employment with the Firm	6MONTHS (Minimum)
	Marks for “Employment with the Firm”	5 marks (Maximum)
	(i) Marks for threshold	(100%)
	Total Score	100

\*\* Candidate not having minimum qualification will not be considered for further evaluation

Note: CV scoring less than 75 marks shall be replaced with better CVs at the time of negotiations

**The Technical Proposal** should score at least 75 points to be considered responsive for financial evaluation. However the CV’ s found deficient (less than 75 marks) shall be replaced with better CVs meeting the minimum essential requirements at the time of Contract Negotiations. (Only 7 days time shall be given to produce better CVs)

However, the Technical proposal shall be declared non-responsive if the firm as individual or in Partnership or in association or Corporate or Limited Company have failed to perform in last 3 years on any contract as evidenced by termination of any contract/ expulsion or imposition of a penalty or arbitration award or a judicial pronouncement.

2.6.1 The address for negotiation is:

Address of Employer:

DESIGNATION:

Executive Director (P)  
RO- Kohima, Nagaland

ADDRESS:

PWD Colony, PWD Rest House

Kohima, Nagaland

E-MAIL ADDRESS:

[edpkohimaoffice@gmail.com](mailto:edpkohimaoffice@gmail.com)

SECTION – 3

TECHNICAL PROPOSAL (STANDARD FORMS)

3A - TECHNICAL PROPOSAL SUBMISSION FORM

FROM:

TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sir:

Subject: Supervision Consultancy Services for 9 MONTHS (name of the project)

\_\_\_\_\_  
\_\_\_\_\_

Regarding Technical Proposal

Having examined the RFP document, understood its contents and visited the site, We \_\_\_\_\_ (Name of Consultant) herewith enclose our Technical Proposal for selection of our firm/organization for the above assignment. The proposal is unconditional and unqualified. We certify that in last 3 years, we as individual or in partnership or in association or corporate or limited company has not failed to perform on any contract as evidenced by termination of contract/ expulsion or imposition of a penalty or arbitration award or a judicial pronouncement.

Our firm has been incorporated in \_\_\_\_\_ (Month/Year) [enclose certificate of Incorporation] and has average annual turnover in last 5 years of Rs. \_\_\_\_\_ Crore from Consultancy Assignments (enclose a certificate from Statutory Auditor)

All the information provided in the proposal is true and correct and all enclosures/annexure/appendices are true copies of their respective originals

Yours faithfully,

Signature \_\_\_\_\_

Full Name \_\_\_\_\_

Designation \_\_\_\_\_

Address \_\_\_\_\_

(Authorized Representative)

### 3B - FIRM' S REFERENCES

#### Relevant Services carried out in the Last Five Years Which Best Illustrate Experience of Firm

##### (A) Construction and Maintenance Projects (Submit only best Five assignments)

The following information should be provided in the format given below for each assignment for which your firm, either individually (sole) or in partnership or in association or corporate or limited company, was legally contracted by the client stated below: (other partner of JV or association or Sub Consultant Assignments shall not be considered).

Assignment Name:		Country:
Worked in the capacity of – Sole Firm or in partnership or in association or corporate or limited company (please specify)		
Location within Country :		Professional Staff Provided by your firm: (Positions & Man Months)
Name of Client :		Total Professional Staff (Positions & Man Months)
Address :		No. of Staff Months :
Start Date (Month / Year)	Completion Date(Month / Year)	Approx. Value of Services : (in Indian Rupees) :
Name of Associated Firm(s) if any :		No. of Months of Professional Staff provided by Associated Firm(s)
Names of Professional Staff provided by your firm and positions :		
Narrative Description of Project :		
Description of Actual Services Provided by your Staff:		

Certificates from the Client (EE or equivalent) should be attached in support of the relevant experience.

- If more than five works are submitted then only first five works will be evaluated. Deleted.
- Five years will be calculated w.r.t. the last date of submission of proposal.
- The handled assignments should be substantially completed (i.e. at least 90% of work contract value) duly certified by the client.

##### (B) Road maintenance (Length: 50 Km or more) Condition surveys carried out: (submit only two assignments details) each for road.

- (i) Name of Project
- (ii) Length of Road
- (iii) Client
- (iv) Month/Year of survey
- (v) Equipment used for survey
- (vi) Enclose the table in which condition survey report submitted

3C - APPROACH AND METHODOLOGY PROPOSED FOR  
PERFORMING THE ASSIGNMENT

(Not more than 2 pages)

The approach and methodology will be detailed precisely under the following topics.

- 1) Understanding the assignment
- 2) Designated 'Engineer' and responsibilities
- 3) Duties and responsibilities of the  
Team Leader & other Key  
personnel
- 4) Methodology for supervising the  
Work of the operation and maintenance
- 5) Quality Assurance System
- 6) Manning Schedule of key & support staff

Note: The approach & methodology should be precise, to the point and relevant to the assignment.

3D – Comments/ suggestions on the TOR

3E – DETAILS OF EQUIPMENT (ALL TYPES) AND SOFTWARE  
PROPOSED TO BE USED

**Deleted**

3F -COMPOSITION OF THE TEAM AND THE TASKS WHICH  
WOULD BE ASSIGNED TO EACH TEAM MEMBER

1. Key Personnel

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Sl. No.	Name	Position	Tasks assigned
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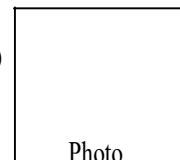
2. Support Staff (Technical)

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Sl. No.	Name	Position	Tasks assigned
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**3G. FORMAT OF CURRICULUM VITAE (CV)  
FOR PROPOSED PROFESSIONAL STAFF**



Proposed Position: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Name of Staff: \_\_\_\_\_

Permanent Address & Telephone Number \_\_\_\_\_

Profession: \_\_\_\_\_

Date of Birth \_\_\_\_\_ [Enclose self attested copy of passport or PAN card]

Years with Firm/Entity: \_\_\_\_\_ Nationality: \_\_\_\_\_

Membership in Professional Societies:

Details of Trainings (more than 15 days) undergone in relevant field:

Details of Technical papers published in relevant field:

**Key Qualifications:**

[Give an outline of staff member's experience and training most pertinent to tasks assigned. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations.]

---

Education:

[Summarize college/university and other specialized education of staff member, giving names of universities, period of study and degrees obtained. Enclose self attested copies of certificates.]

Employment Record:

[Starting with present position, list in reverse order every employment held along with positions held since graduation, giving dates, names of project and employing organizations, titles of positions held, source of funding (World Bank, ADB, JBIC, UN etc.) for the projects handled, types of contract document used (FIDIC e,g,) and locations of assignments. Also give types of activities performed and client references, where appropriate.]

Summary of Experience (this shall be given strictly in the following format and any misrepresentation shall lead to banning the CV in NHIDCL projects).

- (i) Total Professional Experience in Road & Bridges: \_\_\_\_\_ Year \_\_\_\_\_ Months.
- (ii) Specific experience in similar capacity in supervision of construction/ maintenance of NH/SH works

Sl. No.	Brief Name of Project	Position (similar capacity)	Duration (Year ___ Months)
1.			
2.			
3.			
4.			
5.			

Total: \_\_\_ Year \_\_\_ Months

Languages:

[For each language indicate proficiency: excellent, good, fair, or poor; in speaking, reading, and writing]

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this biodata correctly describes myself, my qualification and my experience. I understand that I shall be banned from NHIDCL Projects if any information given in this CV is found incorrect.

Signature of the Candidate \_\_\_\_\_

Place \_\_\_\_\_

Date \_\_\_\_\_

Signature of the Authorized Representative of the firm \_\_\_\_\_

Place \_\_\_\_\_

Date \_\_\_\_\_

Note :

1. The CV shall be signed in blue ball pen by both, the person and the Authorized Representative of the firm in original.
2. Unsigned CVs/CVs with scanned signatures are liable to be rejected.
3. The signature shall match with the signature on passport or PAN card. Appropriate action shall be taken on the firm if signatures are scanned or forged.

(On the letterhead of the consulting firm)

FORM – 3H

**UNDERTAKING FROM A CONSULTANT FIRM**

The undersigned on behalf of the M/s..... certify that Mr.....to the best of our knowledge has not left his assignment with any other NHIDCL contracting firm for the ongoing projects.

We understand that if the information about leaving the past assignment with NHIDCL without completing assignment is known to NHIDCL, NHIDCL would be at liberty to remove the personnel from the present assignment and debar him for an appropriate period decided by NHIDCL.

Further, the undersigned certify that to the best of my knowledge and belief, the biodata/ CV of the proposed personnel correctly describes himself, his qualification and experience. If, anything regarding the qualification and experience submitted by my firm for the proposed personnel is found incorrect at any stage, NHIDCL would be at liberty to debar / blacklist my firm for an appropriate period as decided by NHIDCL.

Signature of the Authorized Representative of the firm \_\_\_\_\_

Place \_\_\_\_\_

Date \_\_\_\_\_

(On the letter head of the bidder)

## **Bid Securing Declaration**

I hereby submit a declaration that the bid submitted by the undersigned, on behalf of the bidder, [Name of the bidder], shall not be withdrawn or modified during the period of validity, i.e. not less than 45 (Forty Five) days from the bid due date.

I, on behalf of the bidder, [Name of the bidder], also accept the fact that in case the bid is withdrawn or modified during the period of its validity or if we fail to sign the contract in case the work is awarded to us or we fail to submit a performance security before the deadline defined in Section -2, Clause 2.7 of the Request for Proposal (RFP), then [Name of the bidder] will be suspended for participation in the tendering process for the works of NHIDCL and works under other Centrally Sponsored Schemes, for appropriate period as decided by NHIDCL from the bid due date of this work.

(Signature of the Authorised Signatory)  
(Official-Seal)

**SECTION - 4**

**FINANCIAL PROPOSAL (STANDARD FORMS)**

**4A - FINANCIAL PROPOSAL**

**(As per BoQ on CPPP)**

4B-SUPERVISION CONSULTANCY SERVICES FOR - (NAME OF THE  
SECTION)

Abstract of Cost

Bill No.	Description	Amount (In Rs.)
A	REMUNERATION (FORM 4 C)	
B	MISCELLANEOUS EXPENSES (FORM 4 D)	
	GRAND TOTAL (In Figures) inclusive of all taxes except GST	
	GRAND TOTAL (In Words) inclusive of all taxes except GST	

<b>4C - SUPERVISION CONSULTANCY SERVICES FOR - (NAME OF THE SECTION)</b>				
<b>A. Remuneration</b>				
(Expressed in Indian Rupees)				
<b>Name</b>	<b>Title (as per RFP)</b>	<b>Estimated Number of Man month (as per RFP) – No./ M/ Year</b>	<b>Monthly Rate</b>	<b>Estimated Amount</b>
<b>(a) Key Professional Staff</b>				
1. Name	Team Leader Cum Resident Engineer	1x9x1=9		
Total		<b>9</b>		
<b>(b) Junior / Sub Professional Staff</b>				
1. To be Named	Field Engineer-I	1x9=9		
2. To be Named	Field Engineer-II	1x6=6		
3. To be Named	Lab Technician	1x9=9		
Total		<b>24</b>		
<b>I Support Staff (Office)</b>				
1. To be Named	DEO/Computer Operator	1x9x1=9		
2. To be named	MTS/Peon	1x9x1=9		
<b>Total</b>		<b>18</b>		

**\*TO BE UPLOADED ONLINE IN BOQ SECTION ONLY.**

**4D. SUPERVISION CONSULTANCY SERVICES FOR PACKAGE – (NAME OF THE SECTION)**

**B Miscellaneous Expenses(expressed in Indian rupees)**

Sl.no.	Description	Unit	Quantity	Unit Rate	Total
1.	Cost of Transport (fixed rate) (i) Scorpio/ Mahindra jeep or equivalent for key personnel The vehicle provided by the consultant shall include the cost for rental, drivers operation (for car), maintenance, repairs, insurance etc. for all complete. [Vehicles shall not be older than 3 years ]	Vehicle per month	1x9 x 1 = 9 Months		
2.	Office supplies, consumables, stationery and reports production as per TOR	Lump sum/month	9 x 1 = 9 Months		
3.	Office accommodation rental including electricity, water supply, maintenance, etc.	Lump sum/month	9 x 1 = 9 Months		
4.	Maintenance of office equipments including computer/ fax/ printer/ copier/ telephone/internet/ software etc. as necessary for carrying out the assignment effectively.	Lump sum/month	9 x 1 = 9 Months		

**\*TO BE UPLOADED ONLINE IN BOQ SECTION ONLY.**

**NOTE**

- i. The man month rates should be inclusive of residential accommodation/all allowances/ holidays/income tax /withholding tax /personal tax etc.
- ii. The man months input as mentioned in TOR are indicative and these would be mobilized as per the requirement at site and shall be reimbursed as per actual input.
- iii. GST payable in India as applicable at the time of payment shall be reimbursed on production of proof of payment containing the assignment name.
- iv. The provision of four wheeled vehicle is only for key personnel deployed for site inspection and other activities as required for effective discharge of functions / duties/ task/ TOR. In case of non-deployment of personnel concerned, cost of transport / vehicle deployed stands idle shall be deducted on pro rata basis.

SECTION – 5

TERMS OF REFERENCE

CONSULTANCY SERVICES FOR SUPERVISION OF MAINTENANCE & REPAIR  
CONTRACT

TERMS OF REFERENCE (TOR)

5.1 Background of project – General Introduction

5.1.1 Deleted

5.1.2 The main role of the Corridor Management is to enhance the overall performance of National Highway Corridors through cost effective Maintenance, Engineering and improve operational management with reduced travel time and enhanced safety.

The NHIDCL, therefore, wishes to procure technical assistance for implementation and supervision of Maintenance & Repair being undertaken by the contractors as detailed below for a period of 9 Months:

Package No.	Section	Length of the package (Approx. in km.)
NHIDCL/RO-Kohima/DP-SC/Nagaland/NH-2/2020-21/01	<b>Consultancy Services for 09 Months for supervision of “Restoration and Repairs of NH-129A from 7th mile junction, Dimapur to Mhaikam (Km 0.0 to 16.0) [Length=16 Km] and from Manipur/Nagaland Border (Dzuko Bridge) to Mhainamtsi (Km 0.0 to Km 39.0) [Length=39 Km] in the State of Nagaland in the FY 2020-21.”</b>	55

The supervision consultancy services broadly include project Management comprising road maintenance and periodic inspections, road property management, road safety and incident management, engineering improvements.

The ‘Employer’ will be the National Highways And Infrastructure Development Corporation Limited. The ‘Engineer’ in terms of the works contract to be eventually drawn up for the execution of the works will be the Consulting firm who would be directly responsible to the employer for implementation of the contract as per the contract stipulations.

## 5.2 Objectives

The objectives of the proposed consultancy services are:

Comprehensive supervision of the project implementation activities carried out by the contractor to ensure complete compliance with respect to technical specifications and various stipulations contained in the M&R Contract documents with high standards of quality assurance in supervision and in the execution of work.

Proper management of the M&R/ Civil Works Contracts Contract in total confirmation to the performance criteria and its finalization when the completion occurs during the consultancy assignment.

To ensure implementation of the M&R/ Civil Works Contract in strict conformity to the minimum performance requirement, which shall also include without limitation, repair & rectification of the defects and deficiencies as specified under contractor's scope of work.

Comprehensive reporting of Compliance / Non compliance of all the activities of the Contractor.

To carry out condition survey of the entire project reach including structures as per IRC/ MoRT&H guidelines/ as per formats (Annexure- VI) given in TOR and submission of a detailed report.

To prepare detailed estimate, designs & drawings of next M&R/ Civil Works Contracts works of the reach based on above studies/ surveys/ audits and also to update inventory of Road, Structures & bridges.

## 5.3 Scope of Work

(a) The consultant will function as the Engineer and will supervise the following works of Contractor strictly in accordance with the performance indicators as given under clause 5.3.3 and other stipulations contained in M&R/ Civil Works Contract documents:

- ❖ Road maintenance – this includes emergency; routine, periodic (whenever required) disaster maintenance. Broadly maintenance will include maintenance of shoulders and slopes, side drains, CD works, carriageway, crust and horticulture maintenance including requisite planting of trees, plants, shrubs and other suitable vegetation in the median and right of way also.
- ❖ Road property management – Identification of encroachment and ribbon development, Land acquisition as desired by NHIDCL, enforcement of regulations, Liaise with the relevant authorities for above and maintenance of road furniture and road signs.

- ❖ Incident management System – road patrols and surveillance, first aid, basic automobile assistance, tow away cranes, wireless/mobile facility and road safety works.
- ❖ Engineering Improvements – Junction improvements, providing fencing along road boundary, Providing Crash Barriers, Provision of Truck & Bus lay byes, management of access and other such works which do not require the technical expert other than mentioned in the proposed team.
- ❖ Inspections – including periodic inspections, routine inspections etc.

(b) The Team Leader of the consultant's team stationed at the project site shall be nominated as Engineer's Representative and shall act on behalf of the Engineer. The Engineer will delegate such authority to the Engineer's Representative as may be necessary for day-to-day working. However, the consultant's firm shall be responsible for all actions taken by their representative and his team.

(c) As Engineer the consultant will assist the Employer to administer the M&R/ Civil Works Contracts on the stretch under purview of consultancy assignment and ensure that all contractual clauses, whether related to the quality or quantities of work are respected and the works are executed in accordance with its provisions. The Consultant will assist the Employer to make all necessary measurements and control the quality of works. The Consultant will make all engineering decisions required for the successful and timely implementation of the contract in consultation with the Employer (NHIDCL). Accordingly, the principal duties, responsibilities and activities of the consultant shall be:

1. to assist the Employer in administering the M&R / Civil Works Contracts including its finalization (when completion occurs during the tenure of consultancy assignment). No separate payment shall be made for finalization obligation and the consultant shall be bound to finalize the culminated contract even after completion of consultancy period without any extra cost ;
2. to undertake various inspections as required under the M&R/ Civil Works Contracts. The inspections include daily & periodic.
3. to approve materials, and ensure that the quality of the works is in accordance with the contractual specifications;
4. to suggest modifications in the contractor's work programme, method statement, material sources, etc;
5. to ensure that the construction maintenance, erection and operation method as proposed by the contractor for carrying out the works are satisfactory, with particular reference to maintenance of environmental standards, safety of the works, safety of traffic, safety of personnel and adequacy, suitability & safety of construction maintenance & operation equipments;

6. Prepare and present monthly progress reports to the Employer, containing description of project activities illustrated by progress/completion photographs;
7. to approve the setting out of the works and give instructions to the contractor;
8. If required to prepare engineering improvement proposals including their designs, drawings, estimate and bid document for approval by Employer before issue to Contractor; consultant will have to submit three copies for the same.
9. to interpret the Technical Specifications, condition of contract, etc of M&R / Civil Works Contracts for approval of Employer ;
10. to evolve a system of Quality Assurance of works;
11. to review all bituminous and concrete mix designs proposed by the M&R/ Civil Works contractor and suggest modifications in the mix design, laying methods, sampling and testing procedures and quality control measures required to obtain the desired standards and consistency in the quality of work for final approval by the Employer;
12. to assess and check the laboratory and field tests carried out by the M&R / Civil Works contractor and carryout independent tests;
13. to assist/advise the 'Employer' for advance actions required to be taken for the safety on the road/ road users;
14. to assist the Employer in proper monitoring / progress of works and implementation of the maintenance programme;
15. to take measurements and keep measurement records, as per direction of NHIDCL.
16. To recommend issue of interim certificates for progress payments within 4 days of the receipt of bill. If the GM (P)/DGM(P) is satisfied about inordinate delay on part of Supervision Consultant, a penalty of Rs. 10,000/- or 0.5% of the monthly amount payable to the Supervision Consultant whichever is higher shall be levied on this account.
17. to maintain records, test data, details of variations, correspondence and diaries in the formats approved / specified by the Employer;
18. to assist the Employer in the certification of completion of part or all of the works;
19. to inspect the works at appropriate intervals and assist the Employer to issue Non-Conformance Report after identification of defect for its non-conformance either to specification or to a specific requirement in the contract document;
20. to prepare quarterly cash flow projections for the Employer

21. to provide assistance to the Employer in respect of contract implementation, claims and other matters;
22. to advise and assist the 'Employer' with respect to the arbitration, the appeal of arbitration or litigation relating to the works, whenever required (during and after completion of consultancy assignment) without any extra cost ;
23. to assist 'Employer' to order the removal of improper/substandard works;
24. to order the uncovering of completed work and / or the removal and substitution of proper materials and / or works, if required;
25. to assist 'Employer' in co-ordination work with different agencies and hold meetings for proper and timely implementation of the works;
26. to examine and attend the measurement of any work which is about to be covered up or put out of view before permanent work is placed thereon and / or examined and attend the measurement of the completed works in the prescribed form;
27. to check the contractor' s accounts, invoices, and other statements as regards arithmetical errors and compliance with contract and if required, to make corrections thereof;
28. to maintain a day-to-day diary which shall record all events pertaining to the administration of the Contract, request forms and work orders given to the contractor and any other information which may at a later date be of assistance in resolving queries which may arise concerning execution of the works;
29. to carry out periodic review of contractor' s resources vis-à-vis work programme
30. to check road inventory km wise road length incorporating all basic data and details of road;
31. to carryout existing road condition survey and listing all defects on bituminous surfacing, berms, drainage system, structure/ CD works, road furniture, manual tolling/computerized tolling system.
32. To collect and furnish data for updating and enlarging NHIDCL' s, Road Information System (RIS).
33. any other assignments given by the 'Employer' . The scope shall however remain restricted to such services as necessary for fulfilling the stipulated obligations of the Engineer.

#### 5.3.1 (d) Variation

- (i) Deleted

- (ii) The consultant will submit the specific reasons for negative / positive variations in the various items of the BOQ.
- (iii) The monthly report on the variations likely to take place in the next month will be submitted by the Consultant to the ED(P), NHIDCL through the GM (P)/DGM(P), PMU NHIDCL, failure to which the will attract penalty @ Rs. 20,000/- per instance subjected to approval of ED(P), RO-KOHIMA.
- (e) As per requirement of site, the engineering up-gradation of the corridor shall be suggested by the consultant and the requisite designs, drawings & estimate for the same will be provided by the consultant. The supervision of such engineering up-gradation of the corridor will be done by the consultant in consultation with the Employer.
- (f) The consultant will issue indents to carry out the necessary works for the rehabilitations and improvement of stretches after the site visits. The total quantity of items should be judiciously spread by the consultants in various indents so that the cumulative quantity equals the total BOQ quantity. Last indent for the items except those indented above should not be issued at the date not later than 30 days before the expiry of the contract. In case the consultant fails to issue indents in time as envisaged in M&R/ Civil Works Contracts or fails to monitor the execution of M&R / Civil Works Contract work as per indents, a penalty of Rs.25,000/- per incident shall be levied on the consultant. If more than 3 such incidents occur requiring levy of penalty, the contract can be terminated due to unsatisfactory performance of the consultant and the performance security shall be forfeited. The decision of NHIDCL, Regional Office shall be final & binding in this regard.

### 5.3.2 Deleted

### 5.3.3 PERFORMANCE STANDARDS

#### PERFORMANCE STANDARDS FOR M & R Contracts:

The performance standards define the level at, which the proposed facility is to be maintained and operated.

SL. NO.	SERVICEABILITY INDICATOR	REQUIRED MAINTENANCE LEVEL	FREQUENCY OF INSPECTIONS BY CONSULTANT TO ENSURE REQUIRED LEVEL OF SERVICE
1.	POTHOLES/KM (MAX. NUMBERS)	5 NOS.	DAILY ON REGULAR BASIS FOLLOWED BY WEEKLY & MONTHLY INSPECTIONS
2.	CRACKING & PATCH (MAX. PERMISSIBLE)	5.0 PER CENT	DAILY ON REGULAR BASIS FOLLOWED BY WEEKLY & MONTHLY INSPECTIONS
3.	RUTTING (20MM), MAX. PERMISSIBLE LIMIT	1.0 PER CENT	DAILY ON REGULAR BASIS FOLLOWED BY WEEKLY & MONTHLY INSPECTIONS
4.	DEFECTIVE BRIDGE DECKS AREA AND BUMP AT APPROACH	NIL	MONTHLY INSPECTIONS

	(MAX. PERMISSIBLE)		
5.	USER INFORMATION	ALL ROAD SIGNS, KM STONES & ROAD MARKING IN GOOD CONDITION	WEEKLY & MONTHLY INSPECTIONS
6.	ALL CD WORKS & BRIDGES	ALL CD WORKS & BRIDGES SHOULD BE IN GOOD CONDITION AND THEIR WATERWAY SHOULD BE CLEAR OF OBSTRUCTIONS	ONCE IN THREE MONTHS AND COMPULSORILY BEFORE AND AFTER MONSOON

Equipments required to carry out the above inspections will be arranged by the consultants. No separate payment will be made on this account unless otherwise specified.

Consultants will maintain the register of inspections for all the above works mentioning the defects observed and action taken.

Consultant will get the above defects rectified as per the scope of the M&R contract. Consultant will report to NHIDCL and suggest the suitable action for the rectification of the defects.

#### 5.4 OTHER RELEVANT INFORMATION

The Consultant shall perform the services in accordance with the laws and any other instruments as per Laws of India, as issued from time to time.

#### 5.5 MEASUREMENT OF QUANTITIES AND CERTIFICATION OF WORK/ PAYMENT OF CONTRACTOR

The Supervision Consultant will process interim and final payments of the Contractor in accordance with M&R Contract Agreement. Interim monthly payments shall be based on interim payment certificates processed by the Supervision Consultants following claims filed by the Contractor. All measurements shall be recorded in M-Books issued by the Employer as per NHIDCL guidelines. In processing contractual payments, the Team Leader of the Supervision Consultant will certify that he has checked at least 75% of the measurements and quality control tests. The 'Consultant' shall intimate the details of these check tests to the GM (P)/DGM (P) before undertaking them, so that the GM (P)/DGM (P) or his officers could associate, if they wish to do so. The 'Consultant' or any of his concerned expert shall do the repeat tests or measurements, if directed by the GM (P)/DGM (P) in his or any of his representative's presence. In case of any conflict the consultant may do the test check in the presence of the NHIDCL designated representative limited to 25% of

total measurement / quality control tests. The consultant shall also check the actual consumption of bitumen, cement & steel in comparison to theoretical consumption. These should also be verified against the quantities received at site from manufacturers along with the corresponding manufactures invoices & test certificates. Duly satisfying/ verifying the same and keeping a record of all relevant documents, the consultant shall certify the payment to M&R Works Contractor. In case of failure to record the measurements or test checking of measurement/QC test or checking the consumption of bitumen/steel/cement, a penalty of Rs.25,000/- per case noticed by the Employer shall be levied on the consultant. If more than 3 such cases are noticed requiring 'Levy of Penalty' the contract can be terminated due to unsatisfactory performance of the consultant and the performance security shall be forfeited. The decision of NHIDCL, Head Office shall be final & binding in this regard.

5.5.1. Deleted.

5.5.2 Deleted.

5.5.3 Deleted

#### 5.6 EXPECTED INPUTS

The package-wise team composition and duration of the key staff, support / junior staff will be as under:

##### KEY PERSONNEL

S. No	Particulars	No s.	Estimated Man-month Input
<b>Key Staff</b>			
1.	Team Leader Cum Resident Engineer	01	09x1=09

##### JUNIOR / SUB PROFESSIONAL STAFF

Sl. No.	Particulars	No.	Estimated Man-month Input
<b>Junior Technical Staff</b>			
1.	Field Engineer -I	01	09x1=09
2.	Field Engineer -II	01	06x1=06
3.	Lab Technician	01	09x1=09
<b>Support Staff (office)</b>			
2.	DEO cum Computer Operator	01	09x1=09
3.	MTS/Peon	01	09x1=09

#### 5.7 ADDITIONAL SERVICES

The supervision consultant shall (if so required by the Client) extend the services on man-month rates as per the contract up to 6 months and provide any additional services (if so required by the Client) on man-month rates as per contract as a variation order.

## 5.8 REPORTS

5.8.1 The consultant will prepare and submit the following reports, as set forth in table below, to the Employer on the format prepared by the consultants and as approved by the Employer.

Sl. No.	Report	Frequency	Due Date/Time	No. of Copies	Penalty for delay/ in accurate submission
1	Progress Report (Monthly)	Every month	05 <sup>th</sup> of the month	3	5% of cost of monthly bill

The Monthly Progress Report (in the NHIDCL accepted format) shall contain details of all meetings, decisions taken therein, mobilization of resources (Consultants' and the contractor), detailed compliance report of each activity, physical and financial progress and the projected progress for the forthcoming periods. The Report shall clearly bring out the delays, if any, reasons for such delay(s) and the recommendations for corrective measures. The Report shall also contain the performance data on Contractor's plant and equipment. A copy of the indent issued and a copy of invoice paid during the month shall be enclosed as part of the report along with a comparative statement of quantities of various items indented, quantities executed by the contractor during the month and action taken in case of shortfall in execution of quantities as per provision of M&R contract (like imposition of LD, etc.) The consultant shall submit the monthly report as per approved format of NHIDCL

5.8.2 The consultant shall use GPS enabled camera for capturing photos/ videos (shall have longitude/ latitude and date & time) of the various maintenance activities under going at site on daily basis and keep a complete documentation/ record of the work executed at site during the month and furnish the details along with the monthly report. The consultant shall capture at least 06 photos/ videos on daily basis for different maintenance activities under operation at the site. The Consultant shall furnish the complete list/ details of inventory at site in first monthly report.

5.8.3 Penalty- The consultant shall submit monthly report in enclosed format along with the copy of daily photographs/ videos captured during the month for the various maintenance activities under operation at site. The penalty for deficiency/ delay in furnishing accurate details shall be deducted @ 5% of monthly bills.

## 5.9 STAFFING SCHEDULE

5.9.1 The total implementation period will be for 09 months for this contract. However, if the stretch is taken up for 2 laning up gradation and strengthening and transferred to the other agency, then in that situation, the contract may be terminated prior to the schedule implementation period without any compensation or claim to the consultant on this account under this contract.

5.9.2 After award of the contract the client expects all the proposed key personnel to be available during implementation of the contract as per the agreed staffing schedule. The client will not consider substitutions during contract implementation except under exceptional circumstances (such as death and/or extreme nature of ailment for which Medical Certificate shall be produced from Hospital/Nursing Home).

## 5.10 CONSULTANT' S PROPOSAL SUBMISSION

5.10.1 The TOR is prepared to address the supervision consultancy packages in a general way. The consultants are also advised to inspect the concerned project stretch and acquaint themselves with the ground realities. The consultants are also advised to go through the bid documents of the M&R/ Civil Works Contracts Works before submission of proposal and include the provisions required thereof meeting the contract requirements.

5.10.2 The consultant' s submission should be focused to the project requirements as per the TOR details. The methodology to be submitted should address to the project stretch requirements. All specific issues for which references have been made in the various paragraphs of this TOR should be addressed effectively. General nature descriptions should be avoided.

## 5.11 Deficiencies of Services:

Deficiencies in services on part of supervision consultants may attract penal provisions in the form of fines, upto a maximum amount of 10% of contract price and/ or debarment etc. by the client. Sample deficiencies may include:

- i. Not acting impartially or acting in collusion with the contractor in issuing indents, issuing variations, fixation of new rates & rates of non-BOQ items recommending times extension, etc.
- ii. Not keeping proper records regarding quality control, inspection, rejection/rectification of work, etc.
- iii. Failure to give proper and timely advice to client/contractor to enable correction during execution.
- iv. Delay in checking/ clearing works and withholding approval, etc.
- v. Refusing to give reasons for decisions when called for by NHIDCL.
- vi. Not being fully conversant with NHIDCL' s / Ministry' s manuals, specifications, standards, guidelines and requirement of the project to be followed during construction.
- vii. Certifying substandard work for payment.
- viii. Not exercising required scrutiny/ non approval of temporary works. Not overseeing the safety requirements on the project reach.
- ix. Lack of proper coordination with contractors and GM (P)/DGM (P) NHIDCL' s representative to ensure smooth implementation of projects.
- x. Permitting subletting of any part of works without authorization

The decision of NHIDCL, RO on the penalties/ fines in above matter shall be final & binding. The performance security to the extent required may be encashed by NHIDCL to recover these fines/ penalty.

## 5.12 PERFORMANCE SECURITY

The Consultant shall be required to submit acceptable Bank Guarantee for an amount equal to 5% of the accepted consultancy cost towards Performance Security, proportionately in the currencies of payment asked for in the bid proposal, no later than the date specified in the Letter of Acceptance. The validity of the Bank Guarantee(s) shall cover the entire duration of the consultancy period plus 3 months. The format of the Bank Guarantee(s) shall be got approved by the consultant from the Employer. The Bank Guarantee(s) shall be released after satisfactory completion of the assignment:

- a. Bank Guarantee, in the name of the Employer from following banks would be accepted :
  - i. State Bank of India or its subsidiaries
  - ii. Any Indian Nationalised Bank
  - iii. IDBI or ICICI / ICICI Bank
  - iv. A Foreign Bank (issued by a branch outside India) with a counter guarantee from SBI or its subsidiaries or any Indian Nationalised Bank
  - v. Any Scheduled Commercial Bank approved by RBI having a net worth of not less than Rs. 500 crores as per the latest Annual Report of the Bank. In the case of a Foreign Bank (issued by a branch in India), the net worth in respect of the Indian operations shall only be taken into account.
  
- b. The acceptance of the guarantees shall also be subject to the following conditions :
  - i. The capital adequacy of the Bank shall not be less than the norms prescribed by RBI (presently 9, with effect from 31 March, 2003,)
  - ii. The bank guarantee issued by a Cooperative Bank shall not be accepted.

The bank details of NHIDCL are as under if required for BG preparation by issuing bank.

Sl. No	Particulars	Details
1	Name of the Beneficiary	National Highways and Infrastructure Development Corporation Limited
2	Beneficiary Bank Account No.	90621010002659
3	Beneficiary Bank Branch	IFSC SYNB0009062
4	Beneficiary Bank Branch Name	Transport Bhawan, New Delhi
5	Beneficiary Bank Address	Syndicate Bank, Transport Bhawan, 1 <sup>st</sup> Parliament street, New Delhi-110001

The Guarantor shall also send information about the issuance of this Guarantee through SFMS gateway to the Syndicate Bank, Transport Bhawan, New Delhi – 110 001 (SYNB09062) to aid in the process of confirmation of Bank Guarantee.

### 5.13 Penalties:

In case delay occurs in satisfactory completion of services due to fault of consultant beyond the stipulated period, the consultant shall be liable to pay penalty @ 0.05% (one twentieth percent) per calendar day subject to maximum of 2.5% (two and a half percent) of contract sum. For delays in satisfactory completion of work beyond 3 (three) months, the amount of performance security in part or full as decided by NHIDCL is liable to be forfeited. However, if extension of time for completion of services is granted upon receipt of express request accompanying full justification from the consultant, the Employer shall pay the same rates for services on prorated basis as applicable prior to the extension and Bank Guarantee(s) towards Performance Security shall be suitably extended by consultant upon advice by NHIDCL with no extra cost to the Employer.

The consultant will indemnify for any direct loss or damage which accrue due to deficiencies in services in carrying out Supervision Consultancy Services. Penalty shall be imposed on the consultant for poor performance/ deficiencies in services.

ANNEXURE-I  
QUALIFICATION REQUIREMENTS

KEY PERSONNEL

1. Team Leader Cum Resident Engineer

i) Educational Qualification

- i. a) Minimum Graduation in Civil Engineering
- b) Desirable Post graduation in Transportation Engineering / Highway Engineering
- ii. Experience
  - a) Min. 8 years total professional experience in roads & bridges
  - b) Min. 3 years and 3 projects (served for 1 year or more on each project) in similar capacity in supervision consultancy (Executive Engineer and above in PWD and equivalent) pertaining to Construction/Maintenance of National/State Highway (for best 3 projects) handled, letter of client approving him on the project and posts in corresponding extract of contract in which duties of the position are mentioned should be enclosed). Retd. Govt./Public Sector officers are exempted for submitting project specific experience certificate/letter, however they are required to submit a self attested documentary proof of being a former Government servant.
- iii. Age limit Not more than 55 years on the date of submission subject to the medical fitness.

Sub Professional Staff

1. Field Engineer

- i. Minimum Graduation or Diploma in Civil Engineering
- ii. Experience
  - a) Min. 2 years (if graduate) or 5 years (if diploma) total professional experience in roads & bridges.
  - b) Min.1 years in construction/ maintenance of National/State Highways
- iii. Age limit Not more than 40 years on the date of submission

2. Lab Technician:

- i. Minimum Graduation or Diploma in Civil Engineering
- ii. Experience
  - a) Min. 1 years (if graduate) or 3 years (if diploma) total professional experience in roads & bridges.
  - b) Min.1 years in construction/ maintenance of National/State Highways
- iii. Age limit Not more than 35 years on the date of submission

SECTION - 6

STANDARD FORM OF CONTRACT AGREEMENT  
&  
GENERAL CONDITIONS OF CONTRACT

FORM OF CONTRACT AGREEMENT  
CONTRACT FOR CONSULTANCY SERVICES

This Contract (hereinafter called the “Contract’ ) is made on this ----- day of -----2020

BETWEEN

NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED, 3<sup>rd</sup> Floor, PTI Building, Parliament Street, New Delhi-110001 (hereinafter called the “Client” ), on the one part,

AND

\_\_\_\_\_  
(Name of the Consultant with address) (herein after called the “Consultants” ) on the other part.

WHEREAS

the client intends to carry out Consultancy Services for 9 MONTHS for Supervision of the Maintenance & Repairs Contract for -----  
-----  
------(Name of the Section)

- a) as defined in this contract (hereinafter called the “Project” ).
- b) the Client has requested the Consultants to provide certain consulting services required for the project as defined in this Contract (hereinafter called the “Services).
- c) the Consultants, having represented to the Client that they have the required professional skills, personnel and technical resources, have agreed to provide the services on the terms and conditions set forth in the Contract.

NOW THEREFORE, the parties 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 (hereinafter called “GC” )
  - (b) The following Appendices:-

Appendix A :Terms of Reference containing, inter-alia, the description of the Service.

Appendix B :Reporting Requirements

Appendix C :Minutes of pre-bid meeting, Corrigendum / Addendum

Appendix D :Information to Consultants (Section – 2 of Bid document)

Appendix E : Deleted

Appendix F : Cost Estimates in Local Currency

Appendix G : Copy of Letter of acceptance and other correspondence with the consultants

Appendix H : Copy of Bank Guarantee for Performance Security

Appendix I : Deleted

Appendix J : Undertaking submitted by the Consultant.

Appendix K : Power of Attorney.

Appendix L : Formats of RFP (Technical & Financial)

2. The mutual rights and obligations of the Client and the Consultants shall be as set forth in the contract; in particular:
  - (a) The consultants shall carry out the services with the provisions of the contract; and
  - (b) The Client shall make payments to the consultants 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.

Authorized Signatory  
for and on behalf of  
the Employer,

Authorized Signatory  
for and on behalf of

M/s -----Consultants,

Witness

Witness

1. Signature

1. Signature

Name

Name

Address

Address

2. Signature

2. Signature

Name

Name

Address

Address

## GENERAL CONDITIONS OF CONTRACT

### 1. GENERAL PROVISIONS

Definitions unless the context otherwise requires, the following terms wherever used in this Contract have following meanings:

- a) "Applicable Law" means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time.
- b) "Client" means the NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED
- c) "Consultants" means \_\_\_\_\_ (Name of the consultant)
- d) "Contract" means the Contract signed by the Parties, together with all documents/Appendices attached hereto and includes all modifications made in terms of the provisions of Clause 2.6 hereof,
- e) "Contractor/Operator" means any person or entity who is employed by the Client for execution of Maintenance and Repair (M&R) works, of \_\_\_\_\_ (Name of Section).
- f) "Effective Date" means the date on which the Contract comes into force and effect pursuant to Clause 2.1 hereof ;
- g) "Government" means the Government of India
- h) "Local Currency" means the Indian Rupees
- i) "Personnel" means persons hired by the Consultants as employees and assigned to the performance of the Services or any part thereof.
- j) "Party" means the Client or the Consultants, as the case may be, and "Parties" means both of them.
- k) "Services" means the work to be performed by the Consultants pursuant to this Contract for the purpose of operations & maintenance work.
- l) "Starting Date" means the date referred to in Clause 2.3 hereof;
- m) "Third Party" means any person or entity other than the Government, the Client and the Consultants.

1.2 Relation between the Parties

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

1.3 Law Governing Contract

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

1.4 Language

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

1.5 Headings

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

1.6 Notices

- 1.6.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram or facsimile to such Party at the addresses specified as under:

For the Client:

Address of Employer:

DESIGNATION:	Executive Director (P) RO-Kohima, Nagaland
ADDRESS:	PWD. Colony, PWD Rest House  Kohima, Nagaland
E-MAIL ADDRESS:	edpkohimaoffice@gmail.com

For the Consultants:

Attention:

---

(Name of Authorized Representative)

Address: \_\_\_\_\_  
Name and address of the consulting firm.

E-MAIL ADDRESS: \_\_\_\_\_

1.6.2 Notice will be deemed to be effective as follows:

- a) In the case of personal delivery or registered mail, on delivery;
- b) In the case of email, (24) hours following confirmed transmission;
- c) In the case of telegrams, (24) hours following confirmed transmission; and
- d) In the case of facsimiles, (24) hours following confirmed transmission

1.7 Location

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

1.8 Authorized Representatives

Any action required or permitted to be taken and any document required or permitted to be executed under the Contract by the Client or the Consultants be taken or executed by the officials as under :

For the Client :	Representative of NHIDCL.
For the Consultants :	Authorized Representative or His designated representative
1.9 Taxes and Duties	
1.9.1	The consultant and the personnel shall pay the taxes and other impositions levied under the existing amendment or enacted laws during life of this contract and the client shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed.
1.9.2	GST: The client shall, however, reimburse to the Consultants all amounts paid towards GST under this contract in accordance with the applicable law of the Govt. of India on production of proof of payment containing the name of the assignment and on certification by the Statutory Auditor of the Consultant.

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract

This Contract shall come into force and effect on the date (The "Effective Date") of the Client's notice to this effect to the Consultants.

## 2.2 Termination of Contract for Failure to Become Effective

If this Contract has not become effective within six (6) months of the date hereof, either Party may, by not less than four (4) weeks written notice to other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

## 2.3 Commencement of Services

The Consultants shall commence the Services not later than on a date (Starting Date) fifteen (15) days after the signing of the Agreement.

## 2.4 Expiration of Contract

Unless terminated earlier pursuant to Clause GC 2.9 hereof, the Contract shall expire when pursuant to the provisions hereof, the services have been completed and payments of remuneration and reimbursable expenditure have been made.

## 2.5 Entire Agreement

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

## 2.6 Modifications

Modifications of the terms and conditions of this Contract, including any modification of the scope of the services, may only be made by written agreement between the Parties. Pursuant to Clause GC 7.2 hereof, however, each Party shall give due consideration to any proposals for modifications made by the other Party.

## 2.7 Force Majeure

### 2.7.1 Definition

- a) For the purpose of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent, confiscation or any other action by Government Agencies.

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

#### 2.7.2 No Breach of Contract

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

#### 2.7.3 Measures to be taken

- a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.
- b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

#### 2.7.4 Consultation

Not later than thirty (30) days after the Consultants, as a result of an event of Force Majeure, have become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

#### 2.7.5 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.

#### 2.7.6 Payments

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultants shall be entitled to continue to be paid under the terms of this Contract subject to consultation as per Clause 2.7.4 hereof which may include costs necessarily incurred by them during such period exclusively for the purpose of discharging their obligation under the Contract and in reactivating the services after the end of such period.

## 2.8 Suspension

The Client may, by written notice of suspension to the Consultants, suspend all payments to the Consultants hereunder if the Consultants fail to perform any of their obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultants to remedy such failure within a period not exceeding fifteen (15) days after receipt by the Consultants of such notice of suspension.

## 2.9 Termination

### 2.9.1 By the Client

The Client may, by not less than fifteen (15) days written notice of termination to the Consultants (except in the event listed in paragraph (f) below, for which there shall be written notice of not less than thirty (30) days), such notice to be given after the occurrence of any of the event specified in paragraphs (a) through (h) of this Clause 2.9.1, terminate this Contract.

- a) If the Consultants fail to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8, hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Client may have subsequently approved in writing;
- b) If the Consultants or if any of their members become insolvent or bankrupt or enter into any agreement with their creditors for relief or debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- c) If the Consultants fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 8 hereof;
- d) If the Consultants submit to the Client, a statement which has a material effect on the rights, obligations or interests of the Client and representation or statement, made/submitted by the Consultants of any part thereof is found to be false;

- e) If, as a result of Force Majeure, the Consultants are unable to perform a material portion of the services for a period of not less than sixty (60) days;
- f) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- g) If the Consultants, in the judgment of the Client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this Clause:

Corrupt practice means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution. "Fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Client, and includes collusive practice among Consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open completion.

- (h) if the consultant fails to perform his duties which qualifies the termination as stated in the TOR

#### 2.9.2 By the Consultants

The Consultants may, by not less than thirty (30) days written notice of termination to the Client (except in the event listed in the paragraph (e) below for which there shall be written notice of not less than sixty (60) days), such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (e) of this Clause 2.9.2 terminate this Contract:

- a) If the Client fails to pay any money due to Consultants pursuant to this Contract and not subject to dispute pursuant to Clause 8 hereof within thirty (30) days after receiving written notice from the Consultants that such payment is overdue;
- b) 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 Consultants may have subsequently approved in writing) following the receipt by the Client of the Consultants notice specifying such breach;
- c) If as a result of Force Majeure, the Consultants are unable to perform a material portion of the services for a period of not less than sixty (60) days; or
- d) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause 8 hereof

- e) If the Consultants, in its sole discretion and for any reason whatsoever decides to terminate the Contract.

### 2.9.3 Cessation of Rights and Obligations

Upon termination of this Contract, pursuant to Clauses 2.2 or 2.9 hereof, or upon expiration of this Contract pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration (ii) the obligation of confidentiality set forth in Clause 3.3 hereof, (iii) the Consultants' obligations to permit inspection, copying and auditing of their accounts and records set forth in Clause 3.6 (ii) hereof, (iv) the Consultants' obligations regarding default in performance of the service in accordance with the provisions of the Contract and for any loss suffered by the Client, whereof, as a result of such default, and (v) any right which a Party may have under the Applicable Law.

### 2.9.4 Cessation of Services

Upon termination of this Contract, by notice of either Party to the other, pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Consultants 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 Consultants and equipment and materials furnished by the Client, the Consultants shall proceed as provided, respectively by Clauses 3.9 or 3.10 hereof.

### 2.9.5 Payment under Termination

Upon termination of this Contract pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Client shall make the following payments to the Consultants (after offsetting against these payments any amount that may be due from the Consultants to the Client):

- i) Remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the effective date of termination:
- ii) Reimbursable expenditures pursuant to Clause 6 hereof for expenditure actually incurred prior to the effective date of termination; and
- iii) Except in the case of termination pursuant to paragraphs (a) through (d) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Contract including the cost of the return travel of the Consultants personnel and their eligible dependents.

### 2.9.6 Disputes about Events of Termination

If either Party whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to arbitration, pursuant to Clause 8 hereof, and this Contract, shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

### 3. OBLIGATIONS OF THE CONSULTANT

#### 3.1 General

##### 3.1.1 Standard of Performance

The Consultants shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Consultants shall always act, in respect of any matter relating to this 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 dealing with Sub-Consultants or Third Parties.

##### 3.1.2 Law Governing Services

The Consultants shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any of the Personnel and agents of the consultants comply with the Applicable Law.

#### 3.2 Conflict of Interests

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

The remuneration of the Consultants pursuant to Clause 6 hereof shall constitute the Consultants' sole remuneration in connection with the contract or the services, and subject to Clause 3.2.2 hereof, the Consultants shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the Discharge of their obligations hereunder, and the Consultants shall use their best efforts to ensure that any of the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

##### 3.2.2 Procurement

If the Consultants, as part of the Services, have the responsibility of advising the Client, on the procurement of goods, works or services, the Consultants shall comply

with any applicable procurement guidelines of the Client and shall at all times exercise such responsibility in the best interest of the Client.

### 3.2.3 Consultants and Affiliates not to engage in certain activities.

The Consultants agree that during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultants, as well as any sub-Consultants and any entity affiliated with such sub-Consultants, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for the project to the Services.

### 3.2.4 Prohibition of Conflicting Activities

Neither the Consultants nor their Sub-Consultants nor the personnel of either of them shall engage, either directly or indirectly, during the term of this Contract, in any business or professional activities in India which would conflict with the activities assigned to them under this Contract.

## 3.3 Confidentiality

The Consultants, their Sub-Consultants and the Personnel of either of them shall not, either during the term or within one year after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

## 3.4 Liability of the Consultants

Subject to additional provisions, as under, the Consultants liability under this Contract shall be as provided by the Applicable law.

- (a) Except in case of gross negligence or willful misconduct on the part of the Consultants or on the part of any person or firm acting on behalf of the Consultants in carrying out the services, the Consultants, with respect to damage caused by the Consultants to the Client's property, shall not be liable to the Client:
  - (i) For any indirect or consequential loss or damage; and
  - (ii) For any direct loss or damage that exceeds (A) total payments for Professional Fees and Reimbursable Expenditures made or expected to be made to the Consultants hereunder or (B) the proceeds, the Consultants may be entitled to receive from any insurance maintained by the Consultants to cover such a liability, whichever of (A) or (B) is higher.

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

### 3.5 Insurance to be taken out by the Consultants

The Consultants (i) shall take out and maintain at his own cost and shall cause any on terms and conditions approved by the Client, insurance against the risks and for the coverage, specified as under 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 current premiums therefore have been paid.

- a) Third Party motor vehicle liability insurance (as per Motor Vehicles Act 1988) in respect of motor vehicles operated in India by the Consultants or their Personnel or any Sub-Consultants or their Personnel, with a minimum coverage for the Project period.
- b) Third Party liability insurance, with a minimum coverage of Rs. 0.5 million per accident with number accidents which shall be identified by the Consultants and got approved by the Client for Project Period.
- c) Professional liability insurance, with a minimum coverage equal to the total amount of the Contract value except the out of pocket expenses. This liability shall be valid for a period of the five years after completion of the Services.
- d) Employer's liability and worker's compensation insurance in respect of the Personnel of the Consultants, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and
- e) Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultants' property used in the performance of the Services, and (iii) any documents prepared by the Consultants in the Performance of the Services.

### 3.6 Accounting, Inspection and Auditing

The Consultants (i) shall keep accurate and systematic accounts and records of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the basis thereof (ii) shall permit the Client or its designated representative periodically and up to one year from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client.

### 3.7 Consultants' Actions requiring Client's prior Approval

The Consultants shall obtain the Client's prior approval in writing before taking any of the following actions:

- a) Deployment of personnel as listed in TOR
- b) Appointing such number of Personnel as are not listed TOR
- c) DELETED
- d) Substitution of any personnel if required on grounds beyond reasonable Control of the Consultants;
- e) Purchase of equipment required for performing the services.

### 3.8 Reporting Obligations

The Consultants shall submit to the Client reports and documents specified in TOR hereto in the form and the numbers and within the time period set forth therein.

### 3.9 Documents prepared by the Consultants to be the Property of the Client

All plans, drawings, specifications, designs, reports and other documents prepared by the Consultants in performing the Services shall become and remain the property of the Client, and the Consultants 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 Consultants may retain a copy of such documents but shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Client.

### 3.10 Equipment and Materials Furnished by the Client

No equipments and material will be provided by the client.

## 4. CONSULTANTS' PERSONNEL AND SUB-CONSULTANTS

### 4.1 General

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

### 4.2 Description of Personnel

- a) The list of Consultants key staff and their estimated periods of engagement have been described in TOR.
- b) If additional work is required beyond the scope of the Services specified in TOR the estimated periods of engagement of Key Staff set forth may be increased by agreement in writing between the Client and the Consultants.

### 4.3 Approval of Personnel

The Key Personnel listed by title as by name are hereby approved by the Client. In respect of other staff whom the Consultants propose to use in carrying out of the Services, the Consultants shall submit to the Client for review and approval of a copy of their biographical data. If the Client does not object in writing (stating the reasons for the objection) within thirty (30) calendar days from the date of receipt of such biographical data and (if applicable) such staff shall be deemed to have been approved by the Client. The removal and/or replacement of personnel is covered under Clause 4.5 hereof.

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

- a) Working hours and holidays for the Consultants' Personnel shall match with that of the Contractual Agency/ Client. To account for travel time at site, Services shall be deemed to have commenced (or finished) from the time of departure from the place of origin (site office of consultant) for the project site or time of arrival at the place of origin after the services. There will be six days working in a week.
- b) The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave. The Consultant's remuneration shall be deemed to cover these items. Any taking of leave by personnel shall be subject to the prior approval by the Client and the Consultant shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.
- c) The man months shown against each personnel shall be exclusive of leave period. The period for which the Consultant's personnel will be on annual leave or on sick leave shall not be charged on the bill. The work of the personnel of the Consultants will have to be adjusted within the regulatory working hours, without any overtime according to the requirement at site.

#### 4.5 Removal and/or Replacement of Personnel

- a) No changes shall be made in the Key Personnel. During an assignment, if substitution is inescapably necessary, the consultants shall forthwith provide as a replacement a person of equivalent or better qualifications.
- b) If the employer (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action or (ii) has reasonable ground to be dissatisfied with the performance of any of the Personnel, then the consultant shall at the employer's written request specifying the grounds therefore, forthwith provide a replacement with qualifications and experience acceptable to client such person shall be inducted only after approval by the client.
- c) For the reason other than death/extreme medical ground (i) for total replacement upto 33% of key personnel, remuneration shall be reduced by 5% (ii) for total replacement between 33% to 50%, remuneration shall be reduced by 10% and (iii) for total replacement beyond 50% of the key personnel, the

client may initiate action for termination/debarment of such consultants for future projects of NHIDCL for a period of 6 months to 24 months.

d) In exceptional situations where the replacement with equivalent or better qualification is not available as mentioned in sub-para (a) & (b) above, replacement with lower qualifications than the originally approved may be accepted with reduction in remuneration as per the NHIDCL guidelines. This kind of relaxation shall however, be limited to replacement of 1 key personnel only in one consultancy contract package.

## 5. OBLIGATIONS OF THE CLIENT

### 5.1 Assistance and Exemptions

Unless otherwise specified, the Client shall use its best efforts to ensure that the Government shall:

- (a) provide the Consultants, Sub-consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultants, Sub-consultants or Personnel to perform the Services;
- (b) assist for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Government' s country;
- (c) facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents;
- (d) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;
- (e) assist the Consultants and the Personnel and any Sub-consultants employed by the Consultants for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law;
- (f) grant to the Consultants, any Sub-consultant and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into Government' s country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services; and
- (g) provide to the Consultants, Sub-consultants and Personnel any such other assistance as may be specified in the contract.

## 5.2 Access to Land

The Client warrants that the Consultants shall have free and unimpeded access to all land in India in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultants and each their personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultants any Sub-consultants or the Personnel of either of them.

## 5.3 Changes in the Applicable Law

If after the date of signing of agreement there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of reimbursable expenses incurred by the Consultants in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultants under this Contract shall be increased or decreased accordingly.

## 5.4 Facilities to be provided by the Client

5.4.1 The Client shall nominate an authorized representative to liaise with the Consultants on all matters connected with this agreement. In turn, the Team Leader of the Consultants for the work shall act as the Liaison Officer for the Consultants to liaise with the representative of the Client.

## 5.5 Payment

In consideration of the Services performed by the Consultants under this Contract the Client shall make to the Consultants such payments and in such manner as is provided in Clause 6 of the Contract.

## 6.0 PAYMENTS TO THE CONSULTANTS

### 6.1 Payments to the Consultants

All payments shall be made by the Client to the Consultants in Indian Rupees as per data sheet and TOR.

### 6.2 Currency of Payment:

All payments shall be made in Indian Rupees.

### 6.3 Duties and Taxes:

For domestic consultants / personnel and foreign consultants / personnel who are permanent residents in India:

The consultants, Sub-consultants and the Personnel shall pay the taxes, duties, fees, levies and other impositions levied under the existing, amended or in acted laws

during life of this contract and the client shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed.

#### 6.4 Mode of Billing and Payment

a) Deleted.

b) DELETED

c) As soon as practicable and not later than fifteen (15 days) after the end of each submission and its subsequent approval by the competent authority, the consultant shall raise their bill on monthly basis.

d) The Client shall cause the payment of the Consultants periodically as given in schedule of payment above within thirty (30) days after the receipt by the Client of bills with supporting documents. Only such portion of statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and cost authorized to be incurred by the Consultants; the client may add or subtract the difference from any subsequent payments. The interest at 6% per year on local currency shall become payable as from the above due date on any amount due but not paid on such due date.

e) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultants and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final statement shall be deemed approved by the Client as satisfactory thirty (30) calendar days after receipt of the final report and final statement by the Client unless the Client, within such thirty (30)-day period, gives written notice to the Consultants specifying in detail deficiencies in the Services, the final report or final statement. The Consultants shall thereupon promptly make any necessary corrections, and upon completion of such corrections, the foregoing process shall be repeated. Any amount which the Client has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the Consultants to the Client within thirty, (30) days after receipt by the Consultants of notice thereof. Any such claim by the Client for reimbursement must be made within three (3) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with the above.

f) All payments under this Contract shall be made to the account of the Consultants.

## 7. FAIRNESS AND GOOD FAITH

### 7.1 Good Faith

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

## 7.2 Operation of the Contract:

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract and the Parties hereby agree that it is their intention that this contract shall operate fairly as between them and without detriment to the interest of either of them and that if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness but on failure to agree on any action pursuant to this Clause shall have the right of dispute subject to arbitration in accordance with Clause 8 thereof.

## 8.0 SETTLEMENT OF DISPUTES

### 8.1 Amicable Settlement

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

### 8.2 Right to Arbitration and Rules of Procedure

Any dispute between the parties as to matters arising pursuant to this Contract which cannot be settled amicably within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement, shall be referred to the adjudication of a Committee of three arbitrators. The Committee shall be composed of one Expert to be nominated by the Client, one to be nominated by the Consultants and the third, who will also act as the Managing Director of the Committee but not as an umpire, who will be chosen jointly by the two arbitrators from a panel of five candidates, none of whom would be in regular employment of the Government, supplied by the Executive Committee of Indian Roads Congress. If either of the Parties fail to appoint his arbitrator or fail to agree on the third nominee within sixty (60) days after receipt of notice for the appointment of such arbitrator, the President of the Indian Roads Congress shall appoint, upon request from either Party and from such panel or otherwise, such arbitrator(s) for the matter in dispute.

The fee and reimbursable expenses to be paid to the arbitrators shall be as fixed by NHIDCL through a policy circular.

Save as otherwise provided in the Contract, the arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act 1996 and any statutory modification or enactment thereof and shall be held at such place and time in India as the committee of arbitrators may determine. The decision of the majority of the Arbitrators shall be final and binding as may be determined by the Arbitrators.

Performance under the Contract shall continue during the arbitration proceedings and payments due to the Consultants by the Client shall not be withheld, unless they are the subject matter of the arbitration proceedings.

All awards shall be in writing and such awards shall state reasons for the awards.

### 8.3 Miscellaneous

if any arbitration proceedings hereunder: the proceeding shall, unless otherwise agreed by the Parties, be held in Delhi.

The English language shall be the official language for all the purposes, and the decision of majority of the arbitrators 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. The procedure for arbitration will be as follows:

- (a) In case of Dispute or difference arising between the Employer and a supervision consultant relating to any matter arising out of or connected with this agreement, such disputes or difference shall be settled in accordance with the Arbitration and Conciliation Act, 1996. The arbitral tribunal shall consist of 3 arbitrators one each to be appointed by the Employer and the supervision consultant. The third Arbitrator shall be chosen by the two Arbitrators so appointed by the Parties and shall act as presiding arbitrator. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the Presiding Arbitrator shall be appointed by the Council of Indian Road Congress.
- (b) If one of the parties fails to appoint its arbitrator in pursuance of sub-clause (a) and (b) above within 30 days after receipt of the notice of the appointment of its arbitrator by the other party, then the Council of Indian Road Congress shall appoint the arbitrator. A certified copy of the order of the Council of Indian Road Congress making such an appointment shall be furnished to each of the parties.
- (c) Arbitration proceedings shall be held at New Delhi, India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.
- (d) The decision of the majority of arbitrators shall be final and binding upon both parties.
- (e) Deleted
- (f) Performance under the contract shall continue during the arbitration proceedings and payments due to the contractor by the owners shall not be withheld, unless they are the subject matter of the arbitration proceedings.

FORM OF BANK GUARANTEE FOR PERFORMANCE SECURITY

(PERFORMAMANCE BANK GUARANTEE)

(Clause-13 of TOR)

To

Address of Employer:

WHEREAS \_\_\_\_\_

[Name and address of Consultants] <sup>1</sup> (hereinafter called “the consultants” ) has undertaken, in pursuance of Contract No. dated to provide the services on terms and conditions set forth in this Contract \_\_\_\_\_ [Name of contract and brief description of works) (hereinafter called the “the Contract” ).

AND WHEREAS it has been stipulated by you in the said Contract that the Consultants shall furnish you with a Bank Guarantee by a recognized bank for the sum specified there in as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Consultants such a Bank Guarantee;

NOW THEREOF we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Consultants up to a total of----- [Amount of Guarantee] [In words], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of [amount of Guarantee] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Consultants before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the services to be performed there under or of any of the Contract documents which may be made between you and the Consultants shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

The liability of the Bank under this Guarantee shall not be affected by any change in the constitution of the consultants or of the Bank.

Notwithstanding anything contained herein before, our liability under this guarantee is restricted to Rs. (Rs.) and the guarantee shall remain valid till. Unless a claim or a demand in writing is made upon us on or before all our liability under this guarantee shall cease.

This guarantee shall be valid for a period of 11 months i.e. upto 2 months beyond the expiry of contract of 9 months.

This guarantee shall also be operatable at our New Delhi Branch located at ..... , from whom, confirmation regarding the issue of this guarantee or extension / renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment there under claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.

Signature and Seal of the \_\_\_\_\_ In presence of  
Guarantor

Name of the Bank

1. \_\_\_\_\_  
(Name, Signature & Occupation)

Name of the Bank

2. \_\_\_\_\_  
(Name, Signature & Occupation)

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

Note: The Guarantor shall also send information about the issuance of this Guarantee through SFMS gateway to the Syndicate Bank, Transport Bhawan, New Delhi – 110 001 (SYNB0009062) to aid in the process of confirmation of Bank Guarantee.