

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

Finance Department – Viksit Andhra Pradesh@2047 – Effective implementation of Development Missions – Revised Guidelines for Procurement of Services from Consulting Agencies / Individual Consultants – Orders – Issued.

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FINANCE (HR. I-Plg & Policy) DEPARTMENT

GO. MS. No.86

Dated: 30-08-2024

Read the following:

1. GO MS No. 89, Finance (HR.I) Department, dated 16.07.2015

**ORDER:**

The Government of Andhra Pradesh has developed a comprehensive strategy for ensuring welfare of all sections of society by enabling every citizen to participate in the economy and take advantage of every opportunity. The State vision plan viz. “*Viksit Andhra Pradesh@2047*” aims to establish an effective and sustainable socio-economic growth and development model. The mission of the Government is to “transform vision into reality” through an actionable, measurable, time-bound and cluster-based development approach with defined result-based indicators.

2. In this background, in order to bridge the capacity / competency gaps within the Government, with specific reference to sectoral diagnostic reviews, strategic and operational planning, technical assistance, technology enablement & transfer, capacity development, monitoring and evaluation, etc., it is imperative for the Government to seek expert assistance from the consulting agencies and individual consultants.

3. With a similar consideration, the Government issued comprehensive guidelines for procurement of consulting services and individual consultants in the year 2015, vide the reference read above. Since it is almost a decade that the said guidelines came into existence, the Government considered to review it and revise it to bring it to currency, keeping in view the present challenges, growth / development / welfare missions committed and the Government’s resolve to pave way firmly towards achieving Viksit Andhra Pradesh 2047.

4. Therefore, after careful examination of the matter, the Government hereby issues revised guidelines for procuring services from consulting agencies and individual consultants, in supersession of the reference read above. Annexure-I to these orders contains the revised procurement guidelines and Annexure-II to these orders contains the mandatory clauses that should be placed in the contracts entered into by the Government Departments / HoDs / State Autonomous Organizations and the Consulting Agencies / Individual Consultants.

5. It is further ordered that all the existing contracts entered into by the GoAP Departments / HoDs / State Autonomous Organizations with any consulting agencies / individual consultants shall be closed within three (3) months from the date of these orders or on the date of expiry of such contracts, whichever is earlier. In the case where such a closure entails a serious and irreversible disruption in citizen service delivery, or any financial implications or any other serious complications, such cases shall be brought to the notice of the

Finance Department within thirty (30) days of these orders, with a request to continue them till the expiry of such contracts, duly providing proper justifications.

6. The Special Chief Secretaries, Principal Secretaries and Secretaries of the Administrative Departments and the Heads of the Departments, Public Sector entities, autonomous bodies etc., are requested to ensure scrupulous implementation of these orders. APCFSS shall design, develop and deploy an online application for effective implementation of these orders, and offer required technical, implementation and maintenance support to the Departments and other institutions in this regard.

7. A copy of this order is available at <https://goir.ap.gov.in>.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

PEEYUSH KUMAR  
PRINCIPAL FINANCE SECRETARY

To  
All Departments of Secretariat.  
All Heads of Departments.  
All District Collectors.  
The P.S to Hon'ble Minister for Finance & Planning.  
The P.S. to Principal Finance Secretary, Finance Department.  
The Secretary, A.P.P.S.C., Vijayawada.  
The Prl. A.G. (A&E), Prl. A.G. (Audit), A.P. Vijayawada.  
The Director, Treasuries and Accounts, A.P., Mangalagiri  
The Pay and Accounts Officer, Mangalagiri  
The Director, Works & Accounts, A.P., Mangalagiri  
All Deputy Director / District Treasury Officers.  
The CEO, APCFSS to provide necessary assistance to the departments concerned.

//FORWARDED::BY ORDER//

  
SECTION OFFICER

## **Annexure – I – Guidelines for Procurement of Agencies and Individual Consultants for Consulting Services**

(GO MS No. 86, Finance (HR. I-Plg & Policy) Department, dated:30/08/2024)

### **I. Scope**

The scope of these guidelines extends to the following.

1. Procurement of Agencies for provision of
  - i. consulting services with specific scope of work and deliverables, or
  - ii. full time consultants with specific job roles and responsibilities
2. Procurement of individual consultants directly by the Procuring Entities, to discharge specific job roles and responsibilities or to carry out specific activities / tasks.

### **II. Applicability**

These guidelines are applicable to all Government Departments, Heads of the Departments, all State Autonomous Organizations such as Companies, Corporations, Societies, Boards, Authorities, Institutions, Projects, etc. (hereinafter called as Procuring Entity), irrespective of the source of funding - government budget, schemes, grants or own funds.

### **III. Procurement Options**

1) The Procuring Entity shall engage the consulting agencies through one of the procurement options specified below.

*i. **Procurement of NISCI-Empanelled Agencies as the first option***

The Procuring Entity shall engage a suitable agency from the empanelled agencies of National Informatics Centre Services Inc. (NISCI), Ministry of Electronics & Information Technology, Government of India, at the rates not exceeding the respective empanelment rates specified by NISCI. This is the first option that shall be mandatorily explored by the Procuring Entity.

*ii. **Procurement through Tender Process, as the next option***

In case the requirements cannot be met from the NISCI-empanelled agencies, which is to be established in the proposal with proper justification, the Procuring Entity may opt for procurement through Tender Process, duly adopting one of the Agency Selection Methods specified in these guidelines.

2) Similarly, when the requirement is engaging Individual Consultants, the Procuring Entity shall do so through the Individual Consultant Selection (ICS) method specified in this Annexure.

### **IV. Selection Methods**

1) In the case where the Procurement Option is Tender Process, then one of the following Agency Selection Methods shall be employed to procure an Agency.

**I. Quality-cum-Cost Based Selection (OCBS)**

This method involves evaluating proposals based on a combination of quality and cost criteria in selecting an Agency. The assessment aims to ensure that the chosen proposal not only meets the required quality standards but also provides value for the cost involved. This method should be the first option of the Procuring Entity, unless the other methods are specifically advantageous over this method.

- A. This method is appropriate where
  - a. the scope of work of the assignment can be precisely defined and the ToR are clear and well specified
  - b. the scope of work is more domain specific and ToR-specific and needs customization of the consulting intervention based on the specific ToR requirements.
  - c. more emphasis needs to be given to the Agency's technical capability than the financial quote
  - d. the scope of work requires a high technical treatment of the subject and had better be carried out by a technically competent Agency rather than an Agency that scores more on the cost rather than on the technical capability
- B. The selection process in this method shall be as follows.
  - a. Based on the extent of the technical capability requirement, the weightage ratio between Technical Evaluation and Financial Evaluation shall be decided and specified in the RfP. (Ex.: Technical = 70% & Financial = 30% or Technical = 60% & Financial = 40% and so on). It shall be ensured that the weightage for Technical Score shall remain higher than that for the Financial Score.
  - b. The tender process includes a Technical Evaluation of the prospective Agencies against certain pre-specified technical parameters.
  - c. The Agencies who score over a certain cut-off Technical Score shall only be allowed to participate in Financial Tender.
  - d. In the Financial Evaluation, the Agency that quoted the least price shall be allocated the Financial Score and the other Agencies shall be allocated Financial Scores on pro-rata basis in the descending order based on the prices quoted by them.
  - e. After Financial Evaluation, a Combined Technical & Financial Score (CTFS) shall be arrived at for each Agency, by combining their Technical and Financial Scores.
  - f. The CTFSs shall be rank ordered in descending order and the Agency that secured the highest CTFS shall be selected as the Successful Agency.

ii. **Least Cost Selection (LCS)**

This method involves evaluating proposals separately based on pre-defined quality and cost criteria in selecting an Agency. The assessment aims to ensure that the chosen proposal meets the minimum required quality standards and then the least cost criteria.

- A. This method is appropriate where
  - a) the assignment is small and of a standard or routine nature
  - b) the intellectual component of the assignment is minor

- c) well-established practices and standards exist to carry out the assignment and
- d) well defined outcome can be executed at different costs

B. The selection process in this method shall be as follows.

- a. The tender process includes a Technical Evaluation of the prospective Agencies against certain pre-specified technical parameters, where it shall be decided whether the Agencies are technically qualified or not.
- b. The Agencies who are technically qualified shall only be allowed to participate in Financial Tender.
- c. In the Financial Evaluation, the Agencies shall be rank ordered in the descending order based on the prices quoted by them.
- d. The Agency that has quoted the least price shall be adjudged as Successful Agency in the tender.

*iii. **Single Source Selection (SSS)***

- 1) Under some special circumstances, it may become necessary to select a particular Consulting firm where adequate justification is available for such single-source selection in the context of the overall interest of the Procuring Entity. Full justification for single source selection should be made available in the proposal.

A. This method is appropriate where

- a) the assignment represents a natural or direct continuation of a previous contract awarded competitively and the performance of the consultant has been good or excellent in the performance review.
- b) the availability of the Agency is essential (for instance, in emergency operations following a natural disaster, a financial crisis, and so forth)
- c) Only one consulting organization has the qualifications or experience or the proprietary knowledge required to carry out the assignment

B. The selection process in this method shall be as follows.

- a) The ToR shall be shared to the prospective Agency and the Agency shall submit their Technical-cum-Financial Proposal.
- b) The Technical-cum-Financial Proposal shall be perused by the Tender Evaluation Committee and cleared if found appropriate.
- c) Required negotiations shall be carried out on the financial aspects and the consulting fee shall be finalized as per the consultant rates specified in these guidelines.
- d) The Agency shall be on boarded after necessary approvals.

- 2) In the case where the Procuring Entity requires to procure individual consultants for specific job roles / activities / tasks, it shall do so by employing the Individual Consultant Selection (ICS) method described below.

- I. The Procuring Entity shall post the details of the requirement in state level / national dailies and/or consulting job sites and on their web site, requesting for responses from eligible Individual Consultants.

- II. The said posting shall contain details such as title of the role, scope of work / activities / tasks to be performed, specific responsibilities, minimum education and experience required, competencies required, etc.
- III. The individual consultants shall respond by providing their Curriculum Vitae (CVs), detailing their eligibility in respect of the requirements asked for. The Procuring Entity may also receive the CVs through referrals.
- IV. A Consultant Selection Committee shall be constituted to interview and select the individual consultants.
- V. The said Committee shall interview the individual consultants that submitted their CVs and selects the most eligible consultants as per the pre-defined selection criteria.
- V. The selected consultants shall be given Consultant Engagement Letters detailing their role, responsibilities, remuneration, activities, deliverables, etc.
- VII. The Procuring Entity shall also enter into a contract with the selected Individual Consultants.
- VIII. The remunerations offered to the selected Individual Consultants shall be as specified in these guidelines.

## **V. Process and Procedure**

The Procuring Entity shall follow the step-wise process as specified below, duly utilizing the services provided on the designated online application specified by the Government.

### **1. Preparation of a detailed Terms of Reference (ToR)**

ToR is important for proper understanding of the assignment and its correct execution. It reduces the risk for the Procuring Entity of unnecessary extra work, delays, and additional expenditure. It helps the consulting firms in getting a comprehensive understanding of what is expected of them. ToR should be extensive and unambiguous and shall include the following.

#### **A. In the Case of Agencies**

- i. A brief introduction of the Procuring Entity and the context of the consulting service.
- ii. Detailed scope and description of the consulting service / work to be performed,
- iii. References to any relevant material, data, maps, reports, surveys, etc., that may help the agencies to understand the scope of work better
- iv. Period of the engagement of the agency
- v. Deliverables & timelines and arrangements for their review and approval mechanisms
- vi. Consultants proposed to be deployed at various levels, their roles, key responsibilities, profile requirements (minimum education, experience and competencies) and their engagement period in person-months where applicable
- vii. Reporting requirements and Nodal Officer arrangements
- viii. Capacity building / transfer of knowledge requirements, if any
- ix. Schedule of Payments and arrangements for reimbursement of out-of-pocket expenses during outstation travel (outstation travel, local conveyance, accommodation expenses, per diems, etc.).

- x. Provision of office space, laptops, computers, printers/copiers, secretarial assistance, etc., proposed to be provided to the agency

**B. In the Case of Individual Consultants**

- i. A brief introduction of the Procuring Entity and the context of the requirement
- ii. Deliverables & timelines and arrangements for their review and approval mechanisms, if any
- iii. Individual Consultants proposed to be deployed, their roles, key responsibilities, profile requirements (minimum education, experience and competencies) and their engagement period in person-months where applicable
- iv. Reporting requirements
- v. Capacity building / transfer of knowledge requirements, if any
- vi. Schedule of Payments and arrangements for reimbursement of out-of-pocket expenses during outstation travel (outstation travel, local conveyance, accommodation expenses, per diems, etc.).
- vii. Provision of office space, laptops, computers, printers/copiers, secretarial assistance, etc., proposed to be provided to the agency

**2) Preparation of the Procurement Proposal**

Upon firming up the ToR, the Procuring Entity shall proceed with preparation of the Procurement Proposal to be submitted for concurrence of the Finance Dept. This proposal shall contain the following details.

**A. In the Case of Agencies**

- i. Type of Service sought from the Agency (Consulting service with specific scope of work and deliverables / Engagement of individual consultants full time with specific job roles and responsibilities)
- ii. Procurement option chosen, and proper justification if the option is procurement through tender process
- iii. Estimated cost of the consulting services (at the rates specified by NICSI, if the option is NICSI-empanelled agencies and the rates specified in these guidelines, if the option is tender process)
- iv. In case of tender process, Agency Selection Method opted for and proper justification in case of Single Source Method
- v. Constitution and composition of Agency Selection Committee (in case of NICSI-empanelled Agencies) or Tender Evaluation Committee (in case of tender process), as applicable, in the Procuring Entity
- vi. Terms of Reference (ToR), as an attachment
- vii. Any other relevant details

**B. In the Case of Individual Consultants**

- i. Type of Service: Procurement of Individual Consultants
- ii. Selection Method: Individual Consultant Selection method
- iii. Estimated total cost of the Individual Consultants for the engagement period
- iv. Constitution and composition of Individual Consultant Selection Committee in the Procuring Entity
- v. Terms of Reference (ToR), as an attachment
- vi. Any other relevant details

3) **Submission of the Procurement Proposal & Concurrence by Finance Dept.**

- i. Upon preparation of the procurement proposal pertaining to the Agencies or the Individual Consultants, as the case may be, it shall be forwarded through proper channel by the Procuring Entity to the Finance Department for concurrence.
- ii. The following Proposal Screening Committee shall be constituted in Finance Dept. to peruse and accord concurrence for the Procurement Proposals forwarded by the Procuring Entities.
  - a. Principal Finance Secretary --- Chairperson
  - b. Secretary, GAD (Services) --- Member
  - c. Secretary of the Procuring Entity --- Member
  - d. Secretary (HR), Finance Dept. --- Convenor
- iii. In the case where GAD-Services or the Finance Department is the Procuring Entity, the Proposal Screening Committee shall be reconstituted as follows.
  - a. A Secretary nominated by the Chief Secretary --- Chairperson
  - b. Principal Finance Secretary --- Member
  - c. Secretary (GAD-Services) --- Member
  - d. Secretary (HR), Finance Dept. --- Convenor
- iv. The Proposal Screening Committee concerned shall peruse the Procurement Proposal submitted by the Procuring Entity, and based on the merits of the proposal, may
  - a. accord concurrence to the proposal with or without modifications, or
  - b. deny concurrence to the proposal, duly mentioning the remarks for rejection
- v. Where additional information is sought by the Proposal Screening Committee, the Procuring Entity shall provide such information.
- vi. The Proposal Screening Committee may, while according concurrence, provide certain specific observations / recommendations and the Procuring Entity shall incorporate / act upon such recommendations appropriately.

4) **Onboarding the Agency / Individual Consultants after Finance Concurrence**

Upon obtaining the Finance concurrence, the Procuring Entity shall carry out the procurement process as specified below.

A. **In case of NICS-Empanelled Agencies**

- i. The procuring entity shall forward the ToR to at least three (3) NICS-Empanelled agencies and the technical cum financial proposals shall be obtained from a minimum of three agencies for evaluation.
- ii. The Agency Selection Committee shall peruse the technical-cum-financial proposals received and based on the following parameters selects one agency.
  - a. Approach & methodology proposed by the agency for executing the scope of work
  - b. Work Plan and Deliverables proposed by the agency
  - c. Profiles of the consulting resources proposed
  - d. Experience of the agency in executing similar scope of work
  - e. Experience of the agency in the Government sector / public sector
  - f. Existence of the Agency in consulting field in the relevant domain
  - g. Financial capability / net worth of the agency
  - h. Consultant rates quoted (which should not be more than the rates at which they are empanelled with NICS)
- iii. Upon selection of the Agency, it shall be approved by the Competent Authority as per the Business Rules in force.

- iv. A Letter of Engagement shall be issued to the selected Agency and a contract shall be entered into by the Procuring Entity and the selected Agency duly incorporating the mandatory terms and conditions specified in Annexure-II of these orders.

**B. In case of Tender Process for Agencies**

- i. If the Agency Selection Methods are Quality-cum-Cost Based Selection (QCBS) or Least Cost Selection (LCS),
  - a. The Procuring Entity shall prepare a Request for Proposal incorporating all the key elements of the ToR.
  - b. The RfP shall be published in the AP eProcurement Portal.
  - c. Proposals shall be received and evaluated as per the process and procedure applicable to the respective methods and the Successful Agency shall be determined.
- ii. If the Agency Selection Method is Single Source Selection (SSS),
  - a. The Procuring Entity shall carry out the selection process specified for Single Source Selection at Para IV.i.iii in this Annexure.
  - b. Upon selection of the Agency, it shall be approved by the Competent Authority as per the Business Rules in force.
- iii. A Letter of Engagement shall be issued to the selected Agency and a contract shall be entered into by the Procuring Entity and the selected Agency.

**C) In the case of Individual Consultants**

The Procuring Entity shall carry out the procurement process as specified in the Individual Consultant Selection (ICS) method given above in Section-IV(2) of this annexure.

**5) Extension/Renewal of the Contract for Further Periods**

- i. Upon completion of the Period of Engagement with the Agency or the Individual Consultants, as the case may be, the contract may be extended subject to the following conditions.
  - a. The performance of the Agency has been assessed to be satisfactory by the Procuring Entity in the Term-End Performance Review, or
  - b. The scope of work to be executed during the extended engagement is a logical continuation of the previous scope of work, or
  - c. The consultant rates continue to be as per the terms and conditions of the existing contract or NICS-empowered rates (in case of NICS-empowered Procurement Option) or as specified in these guidelines (in case of Tender Process Procurement Option), whichever is lower.
- ii. The renewal proposal shall be forwarded through proper channel to the Finance Department for concurrence and the Finance Department, after due diligence, shall accord concurrence for the renewal. First renewal (for a period not more than one year) shall not be subjected to perusal by the Proposal Screening Committee, but, subsequent renewals of the same Agency shall be subjected to perusal by the Proposal Screening Committee.

**VI. Financial Terms for Consulting Resources / Individual Consultants**

In the case where the Procurement Option opted by the Procuring Entity is Tender Process, then the following financial terms shall become applicable for the engagement.

1) **Remuneration of the Consultants**

- i. The person-month rates given below against the various levels of consultants shall be applicable in the following scenarios.
- Procurement of Agencies through the Tender Process Option, for provision of consulting services with specific scope of work & deliverables, or, for deploying full time individual consultants with specific job roles and responsibilities
  - Procurement of individual consultants directly by the Procuring Entities, to discharge specific job roles and responsibilities or to carry out specific activities / tasks.

Level	Minimum Experience Required	Minimum Education Required	Maximum Rate per Person Month (₹)
Young Professional	Up to 3 years of experience in the respective technical / domain / functional area	Graduate / Postgraduate in the related / relevant technical / domain / functional areas	40,000 – 75,000
Junior Level Consultant	3 to 6 years of experience in the respective technical / domain / functional area	Graduate / Postgraduate in the related / relevant technical / domain / functional areas	75,000 – 1,00,000
Middle Level Consultant-1	6 to 10 years of experience in the respective technical / domain / functional area	Graduate / Postgraduate in the related / relevant technical / domain / functional areas	1,00,000 – 1,50,000
Middle Level Consultant-2	10 to 15 years of experience in the respective technical / domain / functional area	Graduate / Postgraduate in the related / relevant technical / domain / functional areas	1,50,000 – 2,00,000
Senior Level Consultant	15 to 20 years of experience in the respective technical / domain / functional area	Postgraduate / Doctorate in the related / relevant technical / domain / functional areas	2,00,000 – 2,50,000
Expert Consultant	More than 20 years of experience in the respective technical / domain / functional area	Postgraduate / Doctorate in the related / relevant technical / domain / functional areas	3,00,000 – 5,00,000

- ii. In the case where the scope of work requires engagement of a consulting resource / individual consultant at any level specified in the table above, for a period of less than a person-month, the remuneration shall be calculated on a pro-rata basis considering the person-month to be consisting of 25 working days.

2) **Institutional Overheads**

The Agencies shall be allowed to quote in their proposals, up to 10% of the total manpower cost of the engagement as Institutional Overheads, in addition to the manpower cost quoted as per the Consultant rates given above. These Institutional Overheads shall not be applicable in the case where the Procuring Entity is directly engaging the Individual Consultants.

3) **Reimbursement of Out-of-Pocket Expenses**

- i. Where the scope of work requires and the ToR provides for out-of-pocket expenses during outstation travel (outstation travel, conveyance during the outstation travel, accommodation charges, per diems, etc.), such expenses shall be reimbursed upon submission of required tour reports and original bills / vouchers. Depending on the scope of work and the mutually agreed upon approach & methodology, the reimbursement of such out-of-pocket expenses may be allowed up to a maximum of 15% of the total manpower cost of the engagement, subject to the terms and conditions of the contract. This is applicable in case of procurement as per para I(1)(i) of this annexure.
- ii. In the case where the Procuring Entity engages Consultants as per para I(1)(ii) and para I(2), the out-of-pocket expenses shall be paid as per the Procuring Entity's rules / regulations / policies.

4) **Application of Goods and Services Tax (GST)**

Where GST is applicable on the services offered by the Agency, such GST shall be paid as specified by the Government of India.

- 5) No other costs, other than those mentioned in this section, shall become payable to the Agencies during their engagement.



SECTION OFFICER

**Annexure – II – Mandatory Contract Terms and Conditions**  
(GO MS No. 86, Finance (HR. I-Plg& Policy) Department, dated 30/08/2024)

**Important Instructions**

While entering into a contract with the Consulting Agency or the Individual Consultant, the Procuring Entity shall observe the following.

- 1) The Procuring Entity shall ensure that all the key details of the ToR, RfP, including the detailed financial implications and a schedule of payments need to be incorporated in the contract entered into with the Consulting Agencies / Individual Consultants.
- 2) The Procuring Entity shall also ensure that the following terms and conditions are included, in addition to those clauses that are deemed fit by the Procuring Entity.
- 3) In case any minor changes are required in these terms and conditions to suit a specific consulting service / engagement, such minor changes may be incorporated by the Procuring Entity, as long as those changes are not undermining the spirit of the terms and conditions concerned.
- 4) The Administrative Department / Head of the Department / State Autonomous Organization shall be referred to as “Procuring Entity” in the Contract. Similarly, the Consulting Agency or the Individual Consultant shall be referred to as “Service Provider” in the Contract.

**Mandatory Contract Terms and Conditions**

**1. Payment Terms**

- a. The payments to the Service Provider shall start, not based on the date of the contract but from the date of
  - i. actual commencement of the service in case of procurement of consulting service from Agencies,
  - ii. actual deployment of the consulting resources in case of provision of consulting resources by an Agency and
  - iii. actual on boarding of the consultants in case of procurement of individual consultants.
- b. Mere submission of Invoices shall not confer any right to the Service Provider for claiming the amount unless all the reports / documents / milestones / other pre-requisites are delivered or complied with, to the satisfaction of the Procuring Entity.

**2. Contract Extension**

- a. Upon completion of the said term, this Contract shall automatically expire, (if not extended) subject to the due discharge of all obligations by Service Provider to the satisfaction of Procuring Entity.
- b. In the event if requirement exists and if the Procuring Entity is satisfied with the Service Provider’s performance and intends to extend the Contract after the Contract term, the parties to the Contract may further extend the tenure of this Contract on mutually agreeable terms and conditions for the period as deemed fit and appropriate.
- c. However, nothing in this contract shall be construed as an assurance to continue the engagement of services of the Service Provider beyond the term of the contract.
- d. Under no circumstances shall the contract, either in full or in part, be automatically renewed and any claim of auto-renewal by the Service Provider shall be null and void.

**3. Duplication of Billing on the Committed Consulting Resources**

The Service Provider shall not bill on the consulting resources committed under this contract, to the extent of their committed person-months, to another Procuring Entity under a contract or to the same Procuring Entity under a different contract.

#### **4. Cessation of the Contract**

This contract shall cease to be valid from the date on which the term of the contract (engagement period specified in the contract) ends.

#### **5. Termination for Breach /Non-Performance**

- a. The Procuring Entity may terminate this contract in the case of occurrence of any of the following events.
  - i. Where the Service Provider is unable to accomplish the assigned works or the quality of the completed work is not to the satisfaction of the Procuring Entity,
  - ii. The consultants fail in timely achievement of the milestones as decided by the Procuring Entity concerned,
  - iii. Where the Service Provider is found lacking in honesty and integrity or the undertakings provided are found to be false subsequently,
  - iv. Where there has been an Event of Default on part of the Service Provider and the default has not been rectified /breach has not been remedied in response to the Notice of Default /Notice of Breach of Contractual Terms / Notice of Non-Performance of Contractual Obligations / Non- Compliance or Violation of Contractual Terms issued by the Procuring Entity,
  - v. Where Service Provider (or Service Provider's Team) is in a position of actual conflict of interest with reference to any of the terms of this contract,
  - vi. Where the Service Provider fails to comply with or is in breach or contravention of any applicable laws.
  - vii. Where the Service Provider's ability to survive as an independent corporate entity is threatened or is lost owing to any reason whatsoever, including inter-alia the filing of any bankruptcy proceedings against Service Provider, any failure by Service Provider to pay any of its dues to its creditors, the institution of any winding up proceedings against Service Provider or the happening of any such events that are adverse to the commercial viability of Service Provider, or
  - viii. Where the Service Provider fails to comply with any decision reached consequent upon arbitration proceedings pursuant to the dispute resolution clause hereunder.
- b. The termination of the contract for breach shall entail all or a few of the following consequences.
  - i. In the event of termination of the Contract, Service Provider's services shall stand cancelled effective from the date of termination of the contract.
  - ii. Service Provider shall provide the Knowledge Transfer in the manner prescribed by and to the levels that are satisfactory to the Procuring Entity.
  - iii. In the event of termination, Procuring Entity shall be entitled to impose any such obligations and conditions and issue any clarifications as may be necessary to ensure an efficient transition and effective business continuity of the Services which Service Provider shall be obliged to comply with.
  - iv. Where the contract gets terminated before completion of the term of the contract, Procuring Entity shall pay the Service Provider for that part of the Services which have been authorized by the Procuring Entity and have been satisfactorily performed by the Service Provider up to the date of termination.
  - v. Without prejudice to any other rights, Procuring Entity may retain such amounts from the payment due to the Service Provider, as may be required to offset any

losses caused to the Procuring Entity as a result of any act / omissions / breach /violations of terms committed by the Service Provider.

#### **6. Termination for Convenience**

- a. The Procuring Entity can terminate the contract by giving a written notice of termination at least 60 days in advance and Termination shall come into effect after the completion of 60 days. Service Provider shall not claim any amount /damages /compensation when the Procuring Entity intends to exercise the option of Termination for Convenience
- b. Service Provider may, subject to the approval by the Procuring Entity, terminate this contract before the expiry of its term, by giving the Procuring Entity a written notice of termination at least 60 days in advance.

#### **7. Consulting Resources Deployed**

- 1) In the case of the consulting resources deployed by the Service Provider, the following provisions shall apply.
  - i. The Procuring Entity shall not be responsible for any act of indiscipline, any medical claim and compensation of any consulting resources deployed by the Service Provider. The persons so deployed shall remain under the control and supervision of the Service Provider and the Service Provider shall be liable for payment of their wages etc, and all other dues payable under various labour Regulations and other statutory provisions.
  - ii. In case any of any consulting resource so deployed by the Service Provider does not come up to the mark in terms of general discipline or does not perform her / his duties properly or indulges in any unlawful activity including riots or disorderly conduct, the Service Provider on the order of the Procuring Entity, shall immediately withdraw such person(s) from the premises of the Procuring Entity.
  - iii. The Service Provider shall keep the Procuring Entity indemnified against all claims whatsoever in respect of the consulting resources deployed with the Procuring Entity at various points in time. In case any such consulting resource so deployed enters in a dispute of any nature whatsoever, it will be the sole responsibility of the Service Provider to contest the same at the appropriate forum(s). In case, the Procuring Entity is made a party and is supposed to contest the case, Procuring Entity shall be reimbursed at the actual expenses by the Service Provider.
  - iv. If any accident occurs with any consulting resource of the Service Provider while doing his/her job, the Procuring Entity shall not be liable in any way and the sole responsibility shall be of the Service Provider.
  - v. In the case where any consulting resource has left the engagement either on his/her own accord or if he/she is withdrawn by the Service Provider or if the Procuring Entity surrenders him/her to the Service Provider owing to poor performance or misconduct, another consulting resource with comparable qualifications, experience and expertise shall be provided by the Service Provider as a replacement within 30 days.
  - vi. The Service Provider shall neither seek nor accept instructions from any authority external to the Procuring Entity in connection with the performance under the contract.
  - vii. During the tenure of the Contract, nothing shall be done by Service Provider in contravention of any Laws, Acts, Rules and/or Regulations or any amendments thereof, in force in India and/or Andhra Pradesh, and it shall keep the Procuring entity indemnified in this regard for any violation or non-compliance of the same.
- 2) In the case of the Individual Consultants brought on board by the Procuring Entity, the

following provisions shall apply.

- i. The Individual Consultant shall not take any action in respect of performance under the contract or otherwise related to his/her obligations under the contract that may adversely affect the interests of the Procuring Entity.
- ii. The Individual Consultant shall not offer any direct or indirect benefit arising from or related to the performance of the contract or the award thereof to any representative, official, employee of the Procuring Entity.
- iii. The Individual Consultant shall comply with all laws, ordinances, rules and regulations bearing upon the performance of his/her obligations under the contract.
- iv. In the performance of the contract, the Individual Consultant shall comply with the standards of conduct. Failure to comply with the same may form grounds for termination of the contract.
- v. During the tenure of the Contract, nothing shall be done by Service Provider in contravention of any Laws, Acts, Rules and/or Regulations or any amendments thereof, in force in India and/or Andhra Pradesh, and it shall keep the Procuring entity indemnified in this regard for any violation or non-compliance of the same.

#### **8. Unauthorized Usage of Data**

- 1) No Data should be stored in a systems of deployed resources other than that communicated and permitted by the Procuring Entity. Access to Data shall be provided to the Service Provider with a prior approval by the Procuring Entity. In case of non-compliance, Procuring Entity reserves the right to penalize the Service Provider as deemed necessary.
- 2) Service Provider shall provide a list of consulting resources that access critical data of the Procuring Entity
- 3) Service Provider shall enter into an NDA Contract with all of their consulting resources and shall submit the copies of the NDAs to the Procuring Entity.
- 4) Service Provider shall take all necessary measures to ensure that the data of the Procuring Entity that was provided to the Service Provider is not accessed by any unauthorized user and for unauthorized purpose.
- 5) In the event of non-compliance, Procuring Entity reserves the right to terminate the contract without any notice and will seek all the available legal remedies and such a non-compliance shall be covered under the Indemnification Clause of this contract

#### **9. Omissions in the Contract**

The Service Provider shall bring to the notice of the Procuring Entity about any omissions in terms of this contract and any information that Procuring Entity believes should be incorporated in this contract document. Procuring Entity shall not be held responsible or liable for any financial implications during the term of the contract on account of any omissions identified by the Service Provider, irrespective of their being reported or not reported by the Service Provider.

#### **10. Non-Disclosure of Material Facts**

- 1) Service Provider shall not conceal any material facts and/or shall not misrepresent the facts related to their organization, financial position, consulting resources deployed, etc., that have a relevance to the consulting service offered by them under this contract. In case any such wilful non-disclosure of information is identified by the Procuring Entity at later point of time, it may attract penal action by the Procuring Entity, including termination of the contract and blacklisting of the Service Provider, and the Procuring Entity can seek any or all remedies that may be deemed fit as per the applicable Laws in force.

- 2) Submission of any forged / fabricated documents during the tender process and/or pre-contract process and/or during the term of the contract shall be viewed very seriously and in such an event, the Procuring Entity shall seek any or all remedies that may be deemed fit as per the applicable Laws in force.

#### **11. Indemnification**

- 1) At any and all the events after the conclusion of the contract between the parties, the Service Provider shall indemnify and hold the Procuring Entity harmless for any cost, damage, losses, penalty and/or liability or claims incurred by or made against Procuring Entity due to breach, non-observance, failure or any other act leading to breach or omissions on part of the Service Provider in the performance of the contract.
- 2) Any action done by the Service Provider may cause the Procuring Entity to incur irreparable harm and damages, the degree of which may be difficult to ascertain, and therefore the Service Provider agrees that monetary damages alone may be inadequate compensation to Procuring Entity in the event where the Service Provider breaches any provision of this contract. Accordingly, Procuring Entity shall have the right to obtain immediate and equitable relief in case of any breach and/or contravention of the terms of the contract by the Service Provider
- 3) In the event of any breach or default or offence committed by the Service Provider under this Contract, the Procuring Entity shall be entitled to take appropriate legal action against the Service Provider, both civil as well as criminal, under the Official Secrets Act, 1923, Indian Penal Code, 1860, Information Technology Act, 2000, or any applicable Laws prevalent in India or any other relevant statutory enactment of legislation in India.
- 4) In such an eventuality, the Procuring Entity reserves the right to take an appropriate action, in law or otherwise, against the Service Provider, as it deems fit and necessary. The Service Provider agrees that nothing in this contract constitutes a waiver by the Procuring Entity of the right to prosecute the Service Provider for any statutory violation.

#### **12. Liquidated Damages in the event of Non-Compliance of Contract Terms / Breach of Contract**

- 1) In case of Non-Compliance with Contract Terms / Breach of Contract, the procuring entity Collects Liquidated damages based on the level of the Impact to the Business limited to a maximum of 100 Percent of the Contract value
- 2) The procedure/methodology adopted for arriving at the Liquidated Damages to be paid by the Service Provider shall be communicated to the Procuring entity. The decision of the Procuring entity in that regard is final and absolute. Service Provider is liable to pay Liquidated damages
- 3) The Service Provider shall pay the amount within 30 days from the receipt of communication from the Procuring entity
- 4) If the Service Provider fails to pay the amount within the said Time Line, the Procuring entity reserves the right to terminate the Contract. The liability of the Service Provider to pay the amount shall continue to exist even after the Termination of the Contract

#### **13. Failure to Submit Documents / Undertakings**

- 1) Any and all of the documents and undertakings that the Procuring Entity directs the Service Provider to produce or submit with respect to the consulting service during the pre-contract and the term of the contract shall be duly submitted by the Service Provider and in the event of non-submission, Procuring Entity reserves the right to take an appropriate action, including termination of the contract.
- 2) Upon Termination, Cancellation, or Expiration of the Contract, Service Provider shall

- promptly return the confidential information to the Procuring entity.
- 3) If the return of the documents is not possible, the Service Provider shall not retain and destroy any copies and shall furnish the Procuring entity with an appropriate Certificate of Destruction of any Confidential Information that is in its possession.

#### **14. Quality of Services**

- 1) The Service Provider shall ensure that the consulting resources deployed render the services to the satisfaction of the Procuring Entity and in conformity with the scope of work agreed upon.
- 2) If the Procuring Entity observes a non-conformity at any point of time during the term of the contract, such non-conformity shall be considered seriously and the Procuring Entity may take an appropriate action including termination of the contract.

#### **15. Measures Taken for Fraud and Corruption**

- 1) For the purpose of this clause, the terms set forth below have meanings as follows:
  - i. “Corrupt practice” means the offering, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in Contract execution;
  - ii. “Fraudulent practice” means a misrepresentation or omission of facts in order to influence a selection process or the execution of a Contract;
  - iii. “Collusive practices” means a scheme or arrangement between the Service Provider with external parties with or without the knowledge of Procuring Entity, designed to establish prices at artificial, non-competitive level;
  - iv. “Coercive practices” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a Contract;
- 2) The following measures shall be taken by the Procuring Entity in this regard.
  - i. Procuring Entity may terminate the contract if it determines at any time that the Representatives of the Service Provider were engaged in corrupt, fraudulent, collusive or coercive practices during the tender process or during execution of this contract, provided that the Service Provider does not take any appropriate and timely measures to remedy the situation to the satisfaction of the Procuring Entity;
  - ii. Procuring Entity may also sanction against the Service Provider, including declaring Service Provider ineligible to be awarded with this contract, either indefinitely or for a stated period of time, if it at any time determines that the Service Provider has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing this contract.
  - iii. Non-disclosure of any relevant facts by the Service Provider shall be considered as a breach of contract and shall be liable for an action as deemed fit by the Procuring Entity, including termination of the Contract
- 3) The following measures shall be taken by Service Provider in this regard.
  - i. The Service Provider shall report to the Head of the Procuring Entity, in case any Procuring Entity official demands / accepts a bribe in any form or demands a favour in any form during the pre-contract or the contract execution phase.
  - ii. The Service Provider shall not participate in any meetings internally or externally with any of the officials of the Procuring Entity, without an official intimation to the Procuring Entity.

## **16. Entire Contract**

The terms and conditions laid down in the Terms of Reference (ToR) and/or the Request for Proposal (RfP) and/or the Letter of Award (LoA), as the case may be, shall be read in consonance with and form an integral part of this contract and shall together constitute the entire contract. This contract supersedes any prior contracts or understanding or representation of the Parties on the subject matter. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for any other statement, representation or a promise this contract has not set forth herein.

## **17. Insurance**

- 1) The Service Provider shall, at his own expense, arrange appropriate comprehensive insurance that will respond to the full extent of the contractual liabilities and to all claims under the Indemnity Clause.
- 2) The Service Provider shall, at his own expense, arrange appropriate comprehensive insurance to cover all risks assumed by the Service Provider under this contract as well as in respect of the consulting resources deployed under this contract. The Procuring Entity shall have no liability on this account.
- 3) The Service Provider shall pay out in the event of any risks of loss or damage caused to the equipment owned by Third Parties at the place of the execution of work by the consulting resources deployed by the Service Provider.
- 4) In the case of Individual Consultant, he/she shall be solely responsible for taking out and for maintaining adequate insurance required to meet any of his/her obligations under the contract, as well as for arranging, at the Individual Consultant's sole expense, such life, health and other forms of insurance as the Individual Consultant may consider to be appropriate to cover the period during which the Individual Consultant provides services under the Contract

## **18. Understanding of the Scope of Work and this Contract**

The Service Provider accepts full responsibility to understand the Scope of Work and the terms and conditions laid down in this contract in their entirety, and in detail, including making any inquiries to the Procuring Entity as necessary to gain such understanding. The Service Provider shall be solely responsible for any gaps in understanding the Scope of Work, and the Procuring Entity shall have the sole discretion to terminate this contract if the Service Provider is at a material variance with the objects of the Scope of Work of this contract after due notice in writing. Such termination shall be at no fault, cost, or liability whatsoever to the Procuring Entity.

## **19. Conflict of Interest**

- 1) The Service Provider shall disclose to the Procuring Entity in writing, all actual and potential conflicts of interest that exist, arise or may arise (either for the Service Provider or its team) in the course of performing the contractual obligations.
- 2) Similarly, the Individual Consultant shall be expected to follow all the rules and regulations of the Procuring Entity. He/she will be expected to display utmost honesty, secrecy of office and sincerity while discharging his/her duties. In case the services of the Individual Consultant are not found satisfactory or found in conflict with the interests of the Procuring Entity, his/her services will be liable for discontinuation without assigning any reason.

## **20. Inoperative Period due to Delay in Addressing the Dependencies**

- 1) The Service Provider shall well in advance bring to the notice of the Procuring Entity, any dependencies that may affect the contract execution and promptly follow up with

the Procuring Entity to address those dependencies appropriately. The failure to alert the Procuring Entity on such dependencies in time shall be solely attributable to the Service Provider and the Procuring Entity shall not be held responsible for any delays caused in addressing such dependencies.

- 2) In case there is a delay in the performance of the Scope of Work, caused by a dependency that was to be addressed by the Service Provider, but was not addressed by them in time, then such time delay caused during the performance of the Scope of Work shall be considered as Inoperative Period. The Procuring Entity shall cause withholding of the payments due for that period until such dependencies are addressed by the Service Provider and the Service Provider shall not claim any amount for such Inoperative Period.

## **21. Medical Clearance**

- 1) The Procuring Entity may require the consulting resources / Individual Consultants to submit a Statement of Good Health from a recognized physician prior to commencement of work.
- 2) In the event of death, injury or illness of the consulting resources / Individual Consultant during the term of contract, their dependents, legal heirs, etc., shall not be entitled to any compensation.

## **22. Force Majeure**

- 1) "Force Majeure" means an event which is beyond the reasonable control of the Service Provider, is not foreseeable, is unavoidable and not brought about by or at the instance of the Service Provider claiming to be affected by such events and which has caused the non-performance or delay in performance, and which makes the Service Provider's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstance and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other extreme adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.
- 2) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of the Service Provider or by the consulting resources / Individual Consultants, nor (ii) any event which a diligent Service Provider could reasonably have expected both to take into account at the time of the conclusion of this contract, and avoid or overcome in the carrying out of its obligations hereunder.
- 3) The failure of the Service Provider to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this contract insofar as such inability arises from an event of Force Majeure, provided that the Service Provider affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this contract.
- 4) The Service Provider affected by an event of Force Majeure shall continue to perform its obligations under the contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- 5) The Service Provider affected by an event of Force Majeure shall notify the Procuring Entity of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- 6) Any period within which the Service Provider shall, pursuant to this contract, complete any action or task, shall be extended for a period equal to the time during which the

- Service Provider was unable to perform such action as a result of Force Majeure.
- 7) During the period of their inability to perform the Services as a result of any event of Force Majeure, the Service Provider, upon instructions by the Procuring Entity, shall either:
    - i. Demobilize or
    - ii. Continue with the Services to the extent possible, in which case the Service Provider shall continue to be paid proportionately and on pro rata basis, under the terms of this contract.
  - 8) In case of disagreement between the Service Provider and the Procuring Entity, as to the existence or extent of Force Majeure, the matter shall be settled in the Arbitration phase.

### **23. Audits and Investigations**

- 1) Each invoice paid by the Procuring Entity shall be subject to a post-payment audit by auditors, whether internal or external, of the Procuring Entity or by other authorized and qualified agents of the Procuring Entity at any time during the term of the contract and for a period of two (2) years following the expiration or prior termination of the contract.
- 2) The Procuring Entity shall be entitled to a refund from the Service Provider for any amounts shown by such audits to have been paid by the Procuring Entity other than in accordance with the terms and conditions of the contract. The Procuring Entity acknowledges and agrees that, from time to time, it may conduct investigations relating to any aspect of the contract or the award thereof, the obligations performed under the contract, and the operations of the Service Provider generally relating to performance of the Contract.
- 3) The right of the Procuring Entity to conduct an investigation and the Service Provider's obligation to comply with such an investigation shall not lapse upon expiration or prior termination of the contract. The Service Provider shall provide his/her full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but not be limited to, the Service Provider's obligation to make available any relevant documentation for such purposes at reasonable times and on reasonable conditions and to grant to the Procuring Entity access to the Service Provider's premises at reasonable times and on reasonable conditions in connection with such access to the relevant documents.
- 4) The audit and investigation procedure shall be done as per the acts and rules in force followed by the procuring entity.

### **24. Arbitration**

- 1) Any dispute, controversy or claim arising out of the contract between the Procuring Entity and the Service Provider, or the breach, termination, or invalidity thereof, unless settled amicably, shall be referred by either of the parties to the Secretary of the Administrative Department or, in case the Procuring Entity itself is an Administrative Department, to the Principal Finance Secretary, Government of Andhra Pradesh. The Secretary of the Administrative Department or the Principal Finance Secretary, as the case may be, may appoint an arbitrator for the settlement of the controversy.
- 2) Disagreements persisting beyond amicable attempts shall be dealt with under the provisions of the Arbitration and Conciliation Act. The venue of arbitration shall be at Amaravati, Vijayawada and the governing law shall be the law of India. The award of the Arbitrator shall be final and binding on the parties concerned.
- 3) In case of Individual Consultants, the Procuring Entity and the Individual Consultant shall use their best efforts to amicably settle any dispute, controversy or claim arising

out of the contract or the breach or termination or invalidity thereof.

## **25. Jurisdiction**

All disputes arising out of this contract shall be subject to the jurisdiction of the Courts in Amaravati, Andhra Pradesh, India.

## **26. Intellectual Property Rights**

- 1) Title to any equipment and supplies that may be furnished by the Procuring Entity to the Service Provider for the performance of any obligations under the contract shall rest with the Procuring Entity, and any such equipment shall be returned at the conclusion of the contract or when no longer needed by the Service Provider. Such equipment, when returned to the Procuring Entity, shall be in the same condition as when delivered to the Service Provider, subject to normal wear and tear, and the Service Provider shall be liable to compensate the Procuring Entity for any damage or degradation of the equipment that is beyond normal wear and tear.
- 2) The Procuring Entity shall be entitled to all intellectual property and other proprietary rights, including, but not limited to, patents, copyrights and trademarks, with regard to products, processes, inventions, ideas, know-how or documents and other materials which the Service Provider has developed under the contract and which bear a direct relation to or are produced or prepared or collected consequence of, or during the course of the performance of the contract, and the Service Provider acknowledges and agrees that such products, documents and other materials constitute works made for hire for the Procuring Entity.
- 3) Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans reports, estimates, recommendations. documents and all other data compiled by or received by the Service Provider under the contract shall be the property of the Procuring Entity that shall be made available for use or inspection at reasonable time and in reasonable places, shall be treated as confidential and shall be delivered only to the Procuring Entity authorised officials upon completion of work under the contract.
- 4) The Service Provider shall be subject to the provisions of the Indian Official Secrets Act, 1923. The Service Provider shall not, except with the previous sanction of the Procuring Entity or in the bona fide discharge of his or her duties, publish a book or a compilation of articles or participate in radio broadcast or contribute an article or write a letter in any newspapers or periodical either in his own name or anonymously or pseudonymously in the name of any other person, if such book, article, broadcast or letter relates to subject matter assigned to him/her by the Procuring Entity.
- 5) Procuring entity shall retain exclusive title and all intellectual property and proprietary rights on the deliverables of the Service Provider. Procuring entity shall have the right to obtain immediate and equitable relief in case of infringement, violation or misappropriation of any Intellectual Property Rights or Data Protection laws by Service Provider.

## **27. Return of Equipment**

Upon Termination, Cancellation, or Expiration of the Contract, the Service Provider shall promptly return the equipment provided by the Procuring entity, if any

## **28. Prohibition of Sexual Exploitation & Abuse**

In the performance of the contract, the Service Provider shall comply with "Sexual Harassment of Women at Workplace 22(Prevention, Prohibition and Redressal) Act, 2013". The Service Provider acknowledges and agrees that any breach of any of the provisions hereof shall constitute a breach of an essential term of the contract, and, in addition to any

other legal rights or remedies available to any person, shall give rise to grounds for termination of the Contract. In addition, nothing herein shall limit the right of the Procuring Entity to refer any alleged breach of the foregoing standards of conduct to the relevant authorities for appropriate legal action.

**29. Terms of the Performance Bank Guarantee (PBG)**

The Service Provider shall comply with the following terms with respect to the Performance Bank Guarantee

- 1) In the event of the Service Provider being unable to service this contract for whatever reason or any breach of terms of this contract, the Procuring Entity shall invoke the PBG. On reduction of value of the PBG owing to such invocation, the Service Provider shall forthwith replenish/restore the PBG to its original value.
- 2) Notwithstanding and without prejudice to any rights whatsoever of the Procuring Entity under this contract, the proceeds of the PBG shall be payable to it as compensation for any loss resulting from Service Provider's failure to complete its obligations under this contract.
- 3) In the event of breach of this contract, the Procuring Entity shall have the right to invoke and appropriate the proceeds of the PBG, in whole or in part, with due notice to the Service Provider to rectify the breach within a reasonable period of time.

  
SECTION OFFICER