

# **SECTION-9: STANDARD FORM OF CONTRACT**

## **CONTRACT FOR CONSULTANT'S SERVICES**

for

**Preparation of Functional Plan for.....**

between

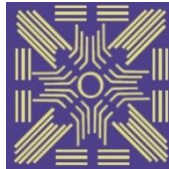
**National Capital Region Planning Board, New Delhi**  
First Floor, Core 4-B, India Habitat Centre,  
Lodhi Road, New Delhi-110003

and

**[Name of Consultant]**

**Contract Agreement No. ....**

**Dated.....**



**National Capital Region Planning Board**  
1st Floor, Core IV B, India Habitat Centre  
Lodhi Road, New Delhi-110003

## CONTENTS

Section	Title	Page No.
<b>I.</b>	<b>CONTRACT</b>	...
		2
<b>II.</b>	<b>GENERAL CONDITIONS OF CONTRACT</b>	...
	<b>1. General Provisions</b>	...
		6
	1.1 Definitions	6
	1.2 Law Governing the Contract	6
	1.3 Language	6
	1.4 Notices	6
	1.5 Location	7
	1.6 Authorized Representatives	7
	1.7 Taxes and Duties	7
	1.8 Performance Guarantee	7
	<b>2. Commencement, Completion, Modification and Termination of Contract</b>	...
	2.1 Effectiveness of Contract	7
	2.2 Commencement of Services	8
	2.3 Expiration of Contract	8
	2.4 Modification	8
	2.5 Force Majeure	8
	2.5.1 Definition	8
	2.5.2 No Breach of Contract	8
	2.5.3 Extension of Time	8
	2.5.4 Payments	8
	2.6 Termination	9
	2.6.1 By the Client	9
	2.6.2 By the Consultants	9
	2.6.3 Payment upon Termination	9
	2.6.4 Failure and Termination	9
	<b>3. Obligations of the Consultant</b>	...
	3.1 General	10
	3.2 Conflict of Interest	10
	3.2.1 Consultants Not to Benefit from Commissions, Discounts, etc.	10
	3.2.2 Consultants and Affiliates Not to Be Otherwise Interested in Project	10
	3.2.3 Prohibition of Conflicting Activities	11
	3.3 Confidentiality	11
	3.4 Insurance to be taken out by the Consultants	11
	3.5 Consultants' Actions Requiring Client's Prior Approval	11

<b>Section</b>	<b>Title</b>		<b>Page No.</b>
	3.6 Reporting Obligations		11
	3.7 Documents Prepared by the Consultants to be the Property of the Client		12
	<b>4. Consultant's Personnel</b>	...	
	4.1 Description of Personnel		12
	4.2 Removal and/or Replacement of Personnel		12
	<b>5. Obligations of the Client</b>	...	
	5.1 Assistance and Exemptions		12
	5.2 Change in the Applicable Law		12
	5.3 Services and Facilities		12
	<b>6. Payments to the Consultant</b>	...	
	6.1 Lump Sum Remuneration		13
	6.2 Contract Price		13
	6.3 Payment for Additional Services		13
	6.4 Terms and Conditions of Payment		13
	6.5 Time Extension		13
	6.6 Liquidated damages for delay		13
	<b>7. Settlement of Disputes</b>	...	
	7.1 Amicable Settlement		14
	7.2 Dispute Settlement		14
<b>III.</b>	<b>APPENDICES ...</b>	...	
	List of Appendices		15
	Appendix A — Description of the Service		16
	Appendix B — Reporting Requirements		17
	Appendix C — Key Personnel and Sub-consultants		18
	Appendix D — Breakdown of Contract Price in Foreign Currency		19
	Appendix E — Breakdown of Contract Price in Local Currency		20
	Appendix F — Services and Facilities Provided by Client		20
	Appendix G — Form of Performance Guarantee		21
	Appendix H — Terms of Reference – Preparation of Functional Plan for.....		23
	Minutes of the Pre-bid Conference		24
	Letters received from successful Consultant, if any.		25

## I. FORM OF CONTRACT

This Agreement (bearing Number ..... ) is made this.....<sup>th</sup> day of the month of ....., 2022 between, on one hand, National Capital Region Planning Board (hereinafter called the Client which includes its assigns, executors & administrator), a Body constituted under the Act of Parliament having its office at 1<sup>st</sup> Floor, Core 4B, India Habitat Centre, Lodhi Road, New Delhi – 110003 and on the other hand, M/s ..... (hereinafter called Consultant), a Company registered under the Indian Companies Act, 1956, and having its registered office at ....., India in the State of ..... through ....., duly appointed its General Attorney. Certified photocopy General Power of Attorney is annexed herewith; Consultant include its assigns, executors and Administrators liable to the Client for the Consultant’s obligations under this Agreement.

[\*Note: *If the Consultants consist of more than one entity, the above should be partially amended to read as follows:*

“.....(hereinafter called the “Client”) and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Client for all the Consultants’ obligations under this Contract, namely, \_\_\_\_\_ and \_\_\_\_\_ (hereinafter called the “Consultants”)]

### WHEREAS

- (a) the Client has requested the Consultants to provide consultancy services as defined in the document called “RFQ-cum-RFP”.
- (b) the Consultants, having represented to the Client that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract and in the Client’s “RFQ-cum-RFP”.

[\*All Notes should be deleted in final text]

### **NOW THEREFORE the parties hereto hereby agree as follows:**

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) The General Conditions of Contract (hereinafter called "GC");
- (b) The following Appendices:

[Note: *If any of these Appendices are not used, the words “Not Used” should be inserted below next to the title of the Appendix on the sheet attached hereto carrying the title of that Appendix.*]

Appendix A	Description of the Services
Appendix B	Reporting Requirements
Appendix C	Key Personnel and Sub-consultant
Appendix D	Breakdown of Contract Price in Foreign Currency
Appendix E	Breakdown of Contract Price in Local Currency
Appendix F	Services and Facilities Provided by Client
Appendix G	Form of Performance Guarantee
Appendix H	TOR, minutes of the pre-bid conference, letters from successful Consultant, if any.

The RFQ-cum-RFP document and conditions therein shall be deemed to be part of this Contract Agreement.

2. The mutual rights and obligations of the Client and the Consultants shall be as set forth in the RFQ-cum-RFP and this Agreement, in particular:
  - (a) The Consultants shall carry out the Services in accordance with the provisions of the Contract Agreement; in addition to the terms of documents of offer and acceptance duly modified mutually after holding conferences for the same; and
  - (b) the Client shall make payments to the Consultants in accordance with the provisions under clause 6 entitled "Payment to the Consultants" of this Agreement.

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

FOR AND ON BEHALF OF  
[NAME OF CLIENT]

By  
(Authorised Representative)

FOR AND ON BEHALF OF  
[NAME OF CONSULTANTS]

By  
(Authorised Representative)

[Note: if the Consultants consists of more than one entity, all of these entities should appear as signatories, e.g. in the following manner:]

FOR AND ON BEHALF OF EACH OF  
THE MEMBERS OF THE CONSULTANTS

[Name of Member]

By  
(Authorised Representative)

[Name of Member]

By  
(Authorised Representative)

etc.

Witness [CLIENT SIDE]	Witness [CONSULTANTS SIDE]
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## **II. GENERAL CONDITIONS OF CONTRACT**

### **1. GENERAL PROVISIONS**

#### **1.1 Definitions**

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Applicable Law” means the laws and any other instruments having the force of law in India.
- (b) “Agreement” or “Contract” means the Contract signed by the Parties, to which these General Conditions (GC) of Contract are attached, together with all the documents listed in Clause 1 of such signed Contract along with all the modifications arrived at after mutual meeting and discussions and it also includes the conditions laid down in the “RFP-cum-RFP” document.
- (c) “Contract Price” means the price to be paid for the performance of the Services, in accordance with Clause 6;
- (d) “Member”, in case the Consultant consist of a consortium of more than one entity, will mean any member of the consortium, or all the members collectively. “Member in Charge” means the entity as specified to act on their behalf in exercising all the Consultant’s rights and obligations towards the Client under this Contract;
- (e) “Party” means the Client or the Consultant, as the case may be, and Parties means both of them;
- (f) “Personnel” means persons hired by the Consultant or by any of their Sub-consultant as employees and assigned to the performance of the Services or any part thereof;
- (g) “Services” means the work to be performed by the Consultant pursuant to this Contract as described in Appendix A; and
- (h) “Sub-consultant” means any entity to which the Consultant subcontract any part of the Services in accordance with the provisions of Clauses 3.5 and 4.

#### **1.2 Law Governing the Contract**

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Law of contract, supplemented by general conditions and special conditions annexed to this contract.

#### **1.3 Language**

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

#### **1.4 Notices**

Any notice, request or consent given pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail or fax to such Party at the address as specified in clause 1.6.

## **1.5 Location**

The Services shall be performed at such locations as are specified in **Appendix A** and, where the location of a particular task is not so specified, at such locations, as the client may approve.

## **1.6 Authorized Representatives**

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

### For the Client:

Director (A&F)  
National Capital Region Planning Board  
Core 4-B, 1st Floor, India Habitat Centre, Lodhi Road  
New Delhi – 110 003

### For the Consultant:

## **1.7 Taxes and Duties**

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

Unless otherwise specified, the Consultant, Sub-consultants and their Personnel shall pay such taxes, duties, fees and other impositions as may be levied under the statutory Laws, the amount of which is deemed to have been included in the Contract Price. The client shall perform such duties in regard to the deduction of such tax as may be lawfully imposed.

## **1.8 Performance Guarantee**

The Consultant will provide performance guarantee of 10% of the contract value, for a period of 18 months beyond the approval of final report. The format for performance guarantee is annexed at **Appendix-G**.

1.9 All the conditions under bidding document for this consultancy, shall be deemed to be part of this contract agreement, even if not explicitly included herein. Further, in case of any conflict/contradiction of language in any aspect amongst this contract document and the bidding conditions, the bidding conditions shall prevail.

## **2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT**

### **2.1 Effectiveness of Contract**

This Contract shall come into effect on the date of signing this Agreement by both the parties and will remain effective till One year from the date of the approval of the final report unless extended by the parties mutually.

## **2.2 Commencement of Services**

The Consultant shall begin carrying out the Services immediately on issuance of Letter of Award (LOA) by Client and acceptance of the same by the Consultant or on signing of this agreement by both the parties, whichever is earlier.

## **2.3 Expiration of Contract**

Unless terminated earlier pursuant to Clause 2.6, this Contract shall terminate with completion of the consultancy in terms of conditions of this agreement to the full satisfaction of the Client.

## **2.4 Modification**

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written agreement between the Parties.

## **2.5 Force Majeure**

### **2.5.1 Definition**

For the purpose of this contract "Force Majeure" means any event or circumstance or combination of events or circumstances beyond the reasonable control of either Party including:

- i) Acts of God and nature including:
  - a) typhoon, flood, earthquake, fire, drought, landslide, unusually severe weather condition or other natural disaster; and
  - b) plague or epidemic or quarantine conditions arising therefrom;
- ii) Air crash, shipwreck, train wrecks or failures or delays of transportation;
- iii) Strikes, lock-outs, work-to-rule actions, go-slows or similar labour difficulties and Governmental Force Majeure that in any way have an affect on the project;

### **2.5.2 No Breach of Contract**

The failure of a Party to fulfil any of its obligations under the contract shall not be considered to be a breach of, or default under this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

### **2.5.3 Extension of Time**

Any period within which a Party in pursuance to this Contract has to complete any action or task, may be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

### **2.5.4 Payments**

During the period of their inability to perform the Services as a result of an event of Force Majeure, no additional payment will be given however a time extension in the project/ assignment may be considered.



## **2.6 Termination**

### **2.6.1 By the Client**

The Client may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Consultant, to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause 2.6.1 and sixty (60) days' in the case of the event referred to in (e):

- (a) if the Consultants do not perform their obligations under this Contract agreement, within thirty (30) days of receipt of the above said notice.
- (b) if the Consultant become insolvent or bankrupt;
- (c) if, as the 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 consultant, 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.

- (e) if the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

### **2.6.2 By the Consultant**

The Consultant may terminate this Contract, by not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the following events:

- (a) if the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause 7 hereof within forty-five (45) days after receiving written notice from the Consultants that such payment is overdue; or
- (b) if, as the result of Force Majeure, the Consultant are unable to perform a material portion of the Services for a period of not less than sixty (60) days.

### **2.6.3 Payment upon Termination**

Upon termination of this Contract pursuant to Clauses 2.6.1 or 2.6.2, the Client shall make the following payments to the Consultant:

- (a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;
- (b) except in the case of termination pursuant to paragraphs (a) and (b) of Clause 2.6.1, reimbursement of any reasonable cost incident to the prompt and lawful termination of the Contract.

## **2.6.4 Failure and Termination**

In case of delay in the conduct of Consultancy services within the time fixed or in the event of repudiation of the contract, the Client reserves the right to recover damage for Breach of contract as indicated below:

*"To recover from the Consultant as agreed liquidated damages including administration expenses and not by way of penalty, a sum equivalent to 0.5% (half percent) of total contractual agreement, which the Consultant has failed to deliver within the period fixed for delivery for each week or part thereof during which delivery is in arrears subject to an overall ceiling of 10% of the total contract price".*

## **3. OBLIGATIONS OF THE CONSULTANT**

### **3.1 General**

The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe 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 dealings with Sub-consultant or third parties.

### **3.2 Conflict of Interests**

#### **3.2.1 Consultant Not to Benefit from Commissions, Discounts, etc.**

The remuneration of the Consultant pursuant to Clause 6 shall constitute the Consultant's sole remuneration in connection with this Contract or the Services, and the Consultant shall not accept for their own benefit any trade commission, discount or any sort of/ similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Consultant shall use their best efforts to ensure that the Personnel, any Sub-consultants, and agents of either of them, similarly shall not receive any such additional remuneration.

#### **3.2.2 Consultant and Affiliates Not to Be Otherwise Interested in Project**

The Consultants agree that, during the term of this Contract and after its termination, the Consultants and their affiliates, as well as any Sub-consultant and any of its affiliates, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

For a period of two years after the expiration of this Contract, the Consultant shall not engage, and shall cause their Personnel as well as their Sub-consultants and their Personnel not to engage, in the activity of a purchaser (directly or indirectly) of the assets on which they advised the Client under this Contract, nor shall they engage in the activity of an adviser (directly or indirectly) of potential purchasers of such assets. The Consultants also agree that their affiliates shall be disqualified for the same period of time from engaging in the said activities.

### **3.2.3 Prohibition of Conflicting Activities**

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

- (a) during the term of this Contract, any business or professional activities which would conflict with the activities assigned to them under this Contract; or
- (b) after the termination of this Contract, such other activities as may be as specified in clause 3.2.2 above.

### **3.3 Confidentiality**

The Consultant, their Sub-consultants, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information/documents relating to the Project, the Services, this Contract, or the Client's business or operations without the prior written consent of the Client.

The Consultant shall also not use these documents for purposes unrelated to this Contract without the prior written approval of the Client.

### **3.4 Insurance to be taken out by the Consultant**

The Consultants (a) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at their (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage, as specified below; and (b) shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.

Professional liability insurance, with a minimum coverage equal to total contract value for this consultancy and valid for a period of 14 months after approval of final report by the client. The amount in Indian currency is Rs. .... (Rupees ..... only).

### **3.5 Consultant's 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) entering into a subcontract for the performance of any part of the Services,
- (b) appointing such members of the Personnel not listed by name in **Appendix-C** ("Key Personnel and Sub-consultants"), and
- (c) any other action that may be as specified in clause 3.2.2.

### **3.6 Reporting Obligations**

The Consultants shall submit to the Client the reports and documents specified in **Appendix B** in the form, in the numbers, and within the periods set forth in the said Appendix.

### **3.7 Documents Prepared by the Consultant to be the Property of the Client**

All plans, drawings, specifications, designs, reports and other documents and software submitted by the Consultants in accordance with Clause 3.6 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 and software to the Client, together with a detailed inventory thereof. The Consultants may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be as specified in clause 3.2.2.

## **4. CONSULTANT'S PERSONNEL**

### **4.1 Description of Personnel**

The titles, agreed job descriptions, minimum qualifications and estimated periods of engagement in the carrying out of the Services of the Consultant's Key Personnel are described in **Appendix C**. The Key Personnel and Sub-consultants listed by title as well as by name in **Appendix C** are hereby approved by the Client.

### **4.2 Removal and/or Replacement of Personnel**

- (a) No changes shall be made in the Key Personnel. In case it becomes incumbent to change any one of key personnel, the Consultants may do so only after providing as a replacement a person of equivalent or better qualifications with prior written approval of the replacement personnel by the Client.
- (b) If the Client finds that any of the Personnel have (i) committed serious misconduct or has been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultants shall, at the Client's written request specifying the grounds thereof, forthwith provide as a replacement a person with qualifications and experience acceptable to the Client.
- (c) The Consultants shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

## **5. OBLIGATIONS OF THE CLIENT**

### **5.1 Assistance and Exemptions**

The Client shall use its best efforts to ensure that the Government shall provide the Consultant such assistance and data as required for successful execution of the contract.

### **5.2 Changes in the Applicable Law**

If, after the date of this Contract, there is any change in the Applicable/ Statutory Law with respect to taxes and duties which increases or decreases the cost of services rendered by the Consultants, then the remuneration and reimbursable expenses otherwise payable to the Consultants under this Contract shall be increased or decreased accordingly and corresponding adjustments shall be made to the ceiling amounts referred to in Clause 6.2.

### **5.3 Services and Facilities**

The Client shall make available to the Consultant the Services and Facilities listed under **Appendix F**.

## **6. PAYMENTS TO THE CONSULTANT**

### **6.1 Lump Sum Remuneration**

The Consultant's total remuneration shall not exceed the Contract Price and shall be a fixed lump sum including all staff costs, Sub-consultants' costs, printing, communications, travel, accommodation, and the like, and all other costs incurred by the Consultant in carrying out the Services described in **Appendix A**. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.

### **6.2 Contract Price**

The price payable in local currency is Rs.....(Rupees .....  
.....)

### **6.3 Payment for Additional Services**

For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the lump sum price is provided in **Appendices D and E**.

### **6.4 Terms and Conditions of Payment**

Payments shall be made according to the **Appendix F** of the contract. Payment shall be made within 45 days of receipt of the bill and the relevant documents and after approval of the relevant report by the Review Committee within 90 days in the case of the final payment.

Payments will be made to the account of the Consultants according to the payment schedule stated as above. First payment shall be released as per the stages, but only after execution of performance guarantee by the consultants. Subsequent payments shall be made in accordance with the conditions as mentioned above on submission of bills by the Consultant.

### **6.5 Liquidated Damages for Delay**

In case of delay in execution of Consultancy services within the time fixed or in the event of repudiation of the contract, the Client reserves the right to recover damage for Breach of contract as indicated below:

“The Client shall recover from the Consultants as agreed liquidated damages including administrative expenses a sum equivalent to 0.5% (Half percent) of total contractual value, which the consultant has failed to the period fixed for submission of reports each week or part thereof during which the submission is in arrears subject to an overall ceiling of 10% of the total contract price.”

6.6 If the report submitted by the Consultant is found deficient in the requisite quality, the approving authority of NCRPB can accept the report, while considering other factors, with a penalty of up to 10% of the payment due in this regard to Consultant. This shall be independent of penalty referred to in point 6.5 above.

## **7. SETTLEMENT OF DISPUTES**

### **7.1 Amicable Settlement**

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

### **7.2 Dispute Settlement**

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions as specified below:

Any Dispute or differences whatsoever arising between the parties out of or relating to the construction, meaning and operation or effect of this agreement or its execution or the breach thereof shall be settled by arbitration in Delhi. The parties agree that the sole arbitrator shall be appointed by the Member Secretary, NCR Planning Board, New Delhi which shall be of the level of Joint Secretary to the Government of India. Parties hereto will raise no objection to the arbitration on the ground that the Arbitrator is a Government servant that he had to deal with matters to which the contract relates or that in the course of his duties as Government servant he has expressed views on all or any of the matters in dispute or difference. It is a term of this agreement that in the event of any difficulty arising by reason of death, resignation, retirement, inability or refusing to act as arbitrator or if the award is set aside by any court for any such reason of procedure, it will be lawful for the Member Secretary, NCR Planning Board to appoint another person as arbitrator in place of the outgoing arbitrator. In every such case it shall be lawful for the new arbitrator to act upon the record of the proceedings as existent at that stage of the arbitration or to commence proceedings de-novo as the arbitrator in his discretion may decide. The provisions of Indian Arbitration and Conciliation Act, 1996 and any modification thereon shall govern the proceedings. The contract and the arbitration shall be governed by Indian Law only. The Award made in pursuance thereof shall be binding on the parties.

The Civil Courts in Delhi alone shall have jurisdiction to entertain any suit or matter arising out of this Agreement.

#### **(1) Rules of Procedure**

Arbitration proceedings shall be conducted in accordance with procedure of the Arbitration & Conciliation Act 1996, of India.

#### **(2) Substitute Arbitrators**

If for any reason an arbitrator is unable to perform his function, a substitute shall be appointed in the same manner as the original arbitrator.

#### **(3) Qualifications of Arbitrators**

The sole arbitrator or the third arbitrator appointed pursuant to paragraphs (a) through (c) of Clause 7.2 (ii) hereof shall be recognized legal or technical expert with extensive experience in relation to the matter in dispute.

#### **(4) Miscellaneous**

In any arbitration proceeding hereunder:

(a) Proceedings shall, unless otherwise agreed by the Parties, be held in Delhi.

(b) The English language shall be the official language for all purposes;

and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

### **III. APPENDICES**

Appendix A — Description of the Services	...
Appendix B — Reporting Requirements	...
Appendix C — Key Personnel and Sub-consultants	...
Appendix D — Breakdown of Contract Price in Foreign Currency	...
Appendix E — Breakdown of Contract Price in Local Currency	...
Appendix F — Services and Facilities Provided by the Client	...
Appendix G — Form of Performance Guarantee	...
Appendix H — TOR, minutes of the Pre-bid conference, letters submitted by Consultant i.e. two letters from Consultant dated ..... and one letter dated .....	...

## **Appendix A**

### **Description of the Services**

*[Give details description of the services to be provided; dates for completion of various tasks, place of performance for different tasks; specific tasks to be approved by Client, etc.]*



## **Appendix B**

### **Reporting Requirements**

*[List format, frequency and contents of reports; persons to receive them; dates of submission, number of copies, etc. If no reports are to be submitted, state here “Not Applicable”]*

## Appendix C

### Key Personnel and Sub-consultants

(Refer clause 4.1 of the Contract)

- List under:
- C-1 Titles [and names, if already available], detailed job descriptions and minimum qualification and experience of Personnel to be assigned to work in India, and staff/ month for each.
  - C-2 List of approved sub-consultants [if already available]; same information with respect to their Personnel as in C-1 or C-2.
  - C-3 Same information as C-1 for Key local Personnel.

S. No.	Name	Qualification	Expertise	Responsibility

### Support Staff

S. No.	Name	Qualification	Expertise	Responsibility

## **Appendix D**

### **Breakdown of Contract Price in Foreign Currency**

## **Appendix E**

### **Breakdown of Contract Price in Local Currency**

*List here the elements of costs used to arrive at the breakdown of the lump sum price-local currency portion:*

- 1. Monthly rates for Personnel (Key Personnel and other Personnel)*
- 2. Reimbursable expenditure*

*This Appendix will exclusively be used for determining remuneration for additional services.*

## **Appendix F**

### **Services and Facilities Provided by the Client**

(to be as per the tender document clauses)

## Appendix G

### Form of Performance Guarantee

(To be stamped in accordance with Stamp Act if any, of the country for issuing bank)

Ref.: Bank Guarantee: \_\_\_\_\_

Date:

Dear Sir,

In consideration of **M/s National Capital Region Planning Board, 1st Floor, Core 4-B, India Habitat Centre, Lodhi Road, New Delhi** (hereinafter referred as the 'Client', which expression shall, unless repugnant to the context of meaning thereof include its successors, administrators and assigns) having awarded to **M/s -----** (hereinafter referred to as the 'Consultant' which expression shall unless repugnant to the context of meaning thereof, include its successors, administrators, executors and assigns), a Contract by issue of Client's Contract Agreement No. ----- dated ----- and the same having been unequivocally accepted by the Consultant, resulting in a Contract valued at Rs. ----- (in words and figures) including such taxes, duties and other impositions as may be levied under the statutory laws, the amount of which is deemed to have been included in the Contract Price as applicable for **preparation of Functional Plan on -----** (hereinafter called the 'Contract') and the Client having agreed to make payment to the Consultant for performance of the above Contract as per the contract for consultancy service against Bank Guarantee to be furnished by the Consultant as security for the performance of the Consultant's obligation and/ or discharge of the Consultant's liabilities under / and/or in connection with the said contract.

We ----- (name of the Bank) having its Head Office at (hereinafter referred to as the Bank), which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators executors and assigns) do hereby guarantee and undertake to pay the Client immediately on demand in writing all amounts demanded by the Client with reference to this guarantee/undertaking to the extent of **Rs. -----** as aforesaid at any time (upto 3% of the contract amount) without any demur, reservation, contest, recourse or protest and/or without any reference to the Consultant. Any such demand made by the Client on the Bank shall be conclusive and binding notwithstanding any difference between the Client and the Consultant or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. We agree that the guarantee herein contained shall be irrevocable and shall continue to be enforceable till the Client discharges this guarantee. And the Bank hereby further agrees as follows:

1. This Guarantee/Undertaking shall be a continuing Guarantee/Undertaking and shall remain valid and irrevocable for all claims of the Client and liabilities of the Consultant arising upto and until 18 months from the date of the approval of the Final Report on consultancy services provided by the Consultant provided that the Bank shall upon the written request of the Client made within in 6 (six) months of the said date extend this Guarantee/Undertaking by a further 6 (six) months from the said date, within which the Client may make a demand hereunder.

2. This Guarantee/Undertaking shall be in addition to any other guarantee or security whatsoever that the Client may now or at any time have in relation to the Consultant's obligation/ liabilities under and/or in connection with the said contract and the Client shall have full authority to taken recourse to or reinforce this security in preference to the other security (ies) at its sole discretion, and no failure on the part of the Client in enforcing or

requiring enforcement of any other security shall have the effect of releasing the Bank from its full liability hereunder.

3. This Guarantee/Undertaking shall not be determined or affected by the liquidation or winding up, dissolution, or change of constitution or insolvency of the Consultant.

4. Bank hereby waives all rights at any time inconsistent with the terms of this Guarantee/Undertaking and the obligations of the Bank in terms hereof shall not be anywise affected or suspended by reasons of any dispute or disputes having been raised by the Consultant (whether or not pending before any Arbitrator, Officer, Tribunal or Court) or any denial of liability by the Consultant or any other order or Communication whatsoever by the Consultant stopping or preventing or purporting to stop or prevent any payment by the Bank to the Client in terms hereof.

5. Notwithstanding anything contained herein:

(a) The Bank's liability under this Guarantee/Undertaking shall not exceed **Rs. -----/-**

(b) This Guarantee/Undertaking shall remain in force upto 18 months from the date of approval of the Final Report by the Client.

6. The Bank hereby declares that Shri \_\_\_\_\_(name & designation of the person authorized to sign on behalf of the Bank) is authorized to sign this Guarantee/Undertaking on behalf of the Bank and to bind the Bank thereby.

Yours faithfully,

(Signature)  
Name & Designation  
Name of the Bank

## Appendix H

**Terms of Reference – Preparation of Functional Plans for-----, Minutes of the Pre-bid Conference, Letters received from the Consultant, if any.**

**Terms of Reference – Preparation of Functional Plans for-----,**

**6A. Background**

**6B. Need for the Study**

**6C. Scope of Work**

**6D. Deliverables**

**6E. Time/ Payment Schedule**

**Support by Consultant after approval of Final Report**

**6F. Other conditions of payment**

**6G. Procedure for Monitoring & Review of the Study**

**6H. Earnest Money & Performance Guarantee**

**(A) Refund/Adjustment of Earnest Money:**

**(B) Performance Guarantee:**

**6I. Agreement**

**6J. General**

**Minutes of the Pre-bid Meeting for preparation of Functional Plans for-----  
held on -----at ----- P.M.**



## **Letters received from the Consultant**