



Sagarmala Development Company Limited

**Request for Proposal
for
Appointment of Consultant for Preparation of Standardized Bidding
Documents for Projects Under the Sagarmala Programme**

Ref. No.: SDCL/NIT/2023-24/33

31st January 2024

**Sagarmala Development Company Ltd. (SDCL)
1st Floor, Thapar House, Gate No. 2
124, Janpath, New Delhi – 110 001**

Disclaimer

1. This RFP document is neither an agreement nor an offer by the Sagarmala Development Company Limited (SDCL) to the prospective Applicants or any other person. The purpose of this Request for Proposal (RFP) is to provide information to interested parties that may be useful to them in the formulation of their proposal pursuant to this RFP.
2. SDCL does not make any representation or warranty as to the accuracy, reliability, or completeness of the information in this RFP document and it is not possible for SDCL to consider the needs of each party who reads or uses this RFP document. This RFP includes statements which reflect various assumptions and assessments arrived at by SDCL in relation to the consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. Each prospective applicant should conduct its own investigations and analysis and check the accuracy, reliability and completeness of the information provided in this RFP document and obtain independent advice from appropriate sources.
3. SDCL will not have any liability to any prospective Applicant/Consultancy Company/ Firm or any other person under any laws (including without limitation the law of contract, tort), the principles of equity, restitution or unjust enrichment or otherwise for any loss, expense or damage which may arise from or be incurred or suffered in connection with anything contained in this RFP document, any matter deemed to form part of this RFP document, the award of the Assignment, the information and any other information supplied by or on behalf of SDCL or their employees, any consultants or otherwise arising in any way from the selection process for the Assignment. SDCL will also not be liable in any manner whether resulting from negligence or otherwise caused arising from the reliance of any Applicant upon any statements contained in this RFP.
4. SDCL will not be responsible for any delay in receiving the proposals. The issue of this RFP does not imply that SDCL is bound to select an Applicant or to appoint the Selected Applicant for the consultancy and SDCL reserves the right to accept/reject any or all of proposals submitted in response to this RFP document at any stage without assigning any reasons whatsoever. SDCL also reserves the right to withhold or withdraw the process at any stage with intimation to all who submitted the RFP Application.
5. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. SDCL accepts no responsibility for the accuracy or otherwise for any interpretation or opinion of the law expressed herein.
6. SDCL reserves the right to change/ modify/ amend any or all provisions of this RFP document. Such revisions to the RFP/ amended RFP will be made available on the website.

Table of Contents

1.	Letter of Invitation.....	5
1.1	Background.....	5
1.2	Submission Format.....	5
1.3	Processing Fee & Earnest Money Deposit (EMD).....	5
1.4	Selection Process.....	6
1.5	Contents of this RFP.....	6
1.6	Amendments.....	6
1.7	Address for Correspondence/Pre-bid Meetings/ Bid Opening	6
2.	Instruction to Bidders: Critical Data Sheet.....	7
2.1	Cover I: Technical Proposal.....	7
2.2	Cover II: Financial Proposal.....	7
2.3	Important Dates	7
2.4	Instructions for Online Bid submission.....	7
3.	Instruction to Bidders: Qualifying Criteria & Evaluation Process	12
3.1	Introduction	12
3.2	Brief Description of the Selection Process:	12
3.3	Qualifying Criteria.....	13
3.4	Proposal Opening and Evaluation Process	14
3.5	Negotiation	15
3.6	Award of contract	15
3.7	Confidentiality.....	16
3.8	Fraudulent and corrupt practices	16
3.9	Miscellaneous	17
4.	Standard Forms of Contract.....	18
4.1	Form of Contract	19
5.	Terms of Reference.....	21
5.1	Objective of Assignment	21
5.2	Scope of work.....	21
5.3	Terms of Engagement.....	21
5.4	Deliverables, Timelines, Payment Terms and Other Conditions	23
6.	General Terms and Conditions	23
6.1	General provisions.....	23
6.2	Deleted.....	26
6.3	Commencement, completion, modification, and termination of contract	26
6.4	Termination of Contract.....	27
6.5	Obligations of the Consultants	28
6.6	Description of Personnel	30
6.7	Obligations of the client	30
6.8	Payments to the consultants.....	30
6.9	Settlement of disputes.....	31
6.10	Responsibility for accuracy of project documents.....	31
6.11	Liquidated damages and Time Extension.....	31
6.12	Representation, warranties, and disclaimer	31
6.13	Miscellaneous	32
6.14	Special Conditions of Contract.....	35
7.	Technical Proposal and Standard Forms.....	37
	FORM 7A: Technical Proposal Submission Form	38
	FORM 7B: General Information of Applicant	40
	FORM 7C: Format for Technical Capacity - (Eligible Assignments)	41
	FORM 7D: Statutory Auditors certificate for Eligible Assignment	42



FORM 7E: Financial Capacity	43
FORM 7F: Format of “Power of Attorney”	44
FORM 7G: Team Composition of Core Team.....	45
FORM 7H: Curriculum Vitae (CV) for Proposed Staff.....	46
8. Financial Proposal - Standard Forms.....	48
FORM 8A: Financial Proposal Submission Form.....	49
FORM 8B: Summary of Costs	50
Appendix I: Format of Bank Guarantee for Performance Security	51

1. Letter of Invitation

1.1 Background

The Sagarmala Programme under the aegis of the Ministry of Ports, Shipping and Waterways (MoPSW), has been instrumental in driving development and fostering economic growth through the enhancement of port infrastructure, connectivity, and modernization.

Under the Programme, a wide spectrum of projects is being executed by Port Authorities, Maritime Boards, and other maritime agencies, in line with the Programme's objectives. A broad list of projects covered under the Sagarmala Programme is as mentioned below:

- i) Mechanization and/or upgradation of existing ports.
- ii) Development of new ports / terminals including development of berth/jetty, dredging/breakwater, coastal protection works, etc.
- iii) Development of ship building, ship repair and ship recycling facilities.
- iv) Fish harbour / fish landing centers including floating jetties.
- v) Coastal tourism projects include development of beaches, cruise terminals, light houses etc.
- vi) Development of Ro-Ro jetties and passenger terminals.
- vii) Development of water aerodromes and allied facilities.

However, there is a lack of uniformity in the bidding documents followed by various implementing agencies. This leads to inconsistencies, confusion, inefficiencies, and undue litigation in the procurement process. To streamline the bidding procedures across agencies and projects, a need for a comprehensive and standardized set of bidding documents has been felt.

On behalf of MoPSW, SDCL intends to engage a consultant for preparation of bid documents for the various categories of projects related to goods and services within the ambit of Sagarmala Programme.

1.2 Submission Format

The Proposal **shall be accepted in e-tendering website of SDCL**, <https://sdcl.euniwizarde.com>, only. Offer received in email or physical form shall not be considered.

1.3 Processing Fee & Earnest Money Deposit (EMD)

- (i) **Processing Fee:** The processing fee to be submitted by bidders is INR 11,800 (Indian Rupee Eleven Thousand Eight Hundred Only) including GST (non-refundable), on e-tendering website.
- (ii) **EMD:** The amount to be submitted as EMD along with proposal is INR 2,20,000 (Indian Rupee Two Lakh Twenty Thousand Only), on e-tendering website.
- (iii) Exemption for EMD shall be available for eligible agencies as per the Ministry of Finance OM, No. F.20/2/2014-PPD (Pt.), dated 25.07.2017, with submission of supporting certificates/documents. The bidder shall be required to upload the same with the offer.

1.3.1 Pre-bid Meeting

- i) A pre-bid meeting shall be held as per the date mentioned in the Data Sheet. The meeting shall be held in hybrid mode at venue as mentioned in para 1.7, and the URL link for virtual mode shall be intimated through the website of SDCL www.sdclindia.com in due course of time.
- ii) During the pre-bid meeting, the Applicant can seek clarifications and make suggestions for consideration by the Client. The Client will endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent, and competitive selection process.

iii) Bidders to note that no request for bid due date extension will be entertained by SDCL.

1.3.2 Performance Security

The successful bidder shall furnish Performance Security equivalent to 10% (Ten) of the accepted Amount (plus GST) before signing of the Contract as Bank Guarantee in the form specified in the RFP/ Contract. The Performance Security shall be retained by the Client and will be released after a period of 90 (Ninety) days from the date of completion of the Assignment.

1.4 Selection Process

The Consultant will be selected on **the least cost (L1)** basis.

1.5 Contents of this RFP

The RFP includes the following documents:

SECTION 1: Letter of Invitation

SECTION 2: Instructions to Bidders: Critical Data Sheet

SECTION 3: Instructions to Bidders: Qualifying Criteria & Evaluation Process

SECTION 4: Standard Forms of contract

SECTION 5: Terms of Reference

SECTION 6: General Terms and Conditions

SECTION 7: Technical Proposal and Standard Forms

SECTION 8: Financial Proposal – Standard Forms

1.6 Amendments

All amendments / corrigenda will only be published on SDCL e-tender website <https://sdcl.euniwizarde.com>, and website of SDCL www.sdclindia.com. The same shall also be uploaded on <https://eprocure.gov.in>.

1.7 Address for Correspondence/Pre-bid Meetings/ Bid Opening

Sagarmala Development Company Limited

1st Floor, Thapar House, Gate No. 2

124, Janpath, New Delhi – 110 001

SDCL reserves the right to accept or reject any or all Proposals without assigning any reason and no correspondence shall be entertained in this regard.

Yours sincerely

General Manager (Projects)

Sagarmala Development Company Limited

2. Instruction to Bidders: Critical Data Sheet

The Proposal complete in all respects, should be submitted in e-tender mode on e-tendering website of SDCL, <https://sdcl.euniwizarde.com>; offer **received in email or physical form shall not be considered.**

2.1 Cover I: Technical Proposal

The technical proposal shall be scanned and digitally signed, and the bidder shall ensure to submit the following with the technical offer:

- (i) RFP document with all addendums and Corrigendum issued till date duly signed by the Applicant.
- (ii) Signed Technical Proposal Submission form as per Form 7A.
- (iii) Provide the General Information of the Applicant as per Form 7B.
- (iv) Format of Technical Capacity (Eligible Assignments) duly filled and signed by Authorized Signatory of the Applicants as per Form 7C.
- (v) Documentary evidence in support of Eligible Assignments is Completion Certificate issued by the Client for the Eligible Assignment
OR
Format of Statutory Auditors certificate for Eligible Assignment as per Form 7D
- (vi) Format of Financial Capacity duly filled and signed by Authorized Signatory of the Applicants as per Form 7E along with the certificate of Statutory Auditors.
- (vii) Format of Power of Attorney for Authorized Signatory duly filled and signed as per Form 7F.
- (viii) Format of Team Composition duly signed by the Authorized Signatory of Applicants as per Form 7G.
- (ix) Format of Curriculum Vitae (CV) for the proposed Key Personnel as Form 7H duly signed by the respective Key Personnel and Authorized signatory of the Applicant.
- (x) Copy of GST Registration
- (xi) Copy of PAN card of the Applicant
- (xii) Necessary documentary evidence, if applicable for claiming the incentives/concession provided in the policy of Startup and MSMEs
- (xiii) All the documents submitted shall be signed and stamped (alternatively, digitally signed) by the Applicant.

It may be noted that the Technical Proposal shall not contain any reference to the Financial Proposal. Any violation will lead to disqualification of the bidder from the bidding process.

2.2 Cover II: Financial Proposal

Financial Proposal shall be submitted online only as per the format provided in the Tender website.

2.3 Important Dates

S No.	Activity	Date	Time
1	Date of Publishing of RFP	31 st Jan 2024	15:00 hours
2	Last date for submission of queries	14 th Feb 2024	11:00 hours
3	Pre-bid Meeting	15 th Feb 2024	11:00 hours
4	Venue of Pre-bid meeting	Conference Room at SDCL	

S No.	Activity	Date	Time
		1 st Floor, Thapar House, Gate No.2 124, Janpath, New Delhi - 110001	
5	Proposal Due Date	4 th Mar 2024	15:00 hours
6	Technical Proposal opening	4 th Mar 2024	15:30 hours
7	Financial Proposal opening	To be intimated to Technically Qualified Applicants	
8	Validity of Proposal	180 days	

2.4 Instructions for Online Bid/ Proposal Submission through Tender site **<https://sdcl.euniwizarde.com>**

The Applicants/bidders are required to submit soft copies of their bids/proposals electronically on the e-wizard Portal, using valid Digital Signature Certificates. The instructions given below are meant to assist the Applicants/bidders in registering on the e-Procurement Portal <https://sdcl.euniwizarde.com>, prepare their bids/proposals in accordance with the requirements and submitting their bids online on the e- Procurement Portal.

More information useful for submitting online bids on the e-Procurement Portal may be obtained at: <https://sdcl.euniwizarde.com>

2.4.1 Registration

- (1) Bidders/Applicants are required to enroll on the e-Procurement Portal <https://sdcl.euniwizarde.com> by clicking on the link “**Bidder Enrollment**” on the e-wizard Portal by paying the Registration fee of Rs. 2360/- per year charge.
- (2) As part of the enrolment process, the bidders will be required to choose a unique user name and assign a password for their accounts.
- (3) Bidders/Applicants are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication with the bidder/Applicant.
- (4) Upon enrolment, the Bidders/Applicants will be required to register their valid Digital Signature Certificate (Only Class III Certificates with signing + encryption key usage) issued by any Certifying Authority recognized by CCA India (e.g. Capricorn / Sify / TCS / nCode / eMudhra etc.), with their profile.
- (5) Only one valid DSC should be registered by a bidder. Please note that the bidders are responsible to ensure that they do not lend their DSC's to others which may lead to misuse.
- (6) Bidder then logs in to the site through the secured log-in by entering their user ID/password and the password of the DSC / e-Token.

- (7) The scanned copies of all original documents should be uploaded on portal.
- (8) For any Query contact to our helpdesk Number 011-49606060, **Email helpdeskeuniwizarde@gmail.com**, Mr. Anshuman Thakur/ Mr. Akshay/ Mr. Amrendra / Mr.Birendra – 9355030616 / 9355030623/ 9355030628/ 9205898228

2.4.2 Searching for Bidding Documents

- (1) There are various search options built in the e-bid Portal, to facilitate bidders to search active bids by several parameters. These parameters could include Bid ID, Item/work ID, Title, Date, etc
- (2) Once the bidders have selected the bids they are interested in, the bidder can pay the processing fee (for processing fee for e-procurement portal) by net-banking / Debit / Credit card and then download the required documents / bid schedules, Bid documents etc as mentioned on website. Once processing fee is paid, it will be moved to the respective “requested” Tab. This would enable the e-bid Portal to intimate the bidders through e-mail in case there is any addendum and corrigendum issued to the bidding document.

2.4.3 Preparation of Bids

- (1) Bidder should take into account any addendum and corrigendum published on the bid document before submitting their bids only on e-procurement portal (<https://sdcl.euniwizarde.com>).
- (2) Please go through the bid advertisement and the bid document carefully to understand the documents required to be submitted as part of the bid. Please note the number of covers in which the bid documents have to be submitted, the number of documents - including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the bid.
- (3) Bidder, in advance, should get ready the bid documents to be submitted as indicated in the bid document / schedule and generally, they can be in PDF /JPEG formats. Bid Original documents may be scanned with 100 dpi with Colored option which helps in reducing size of the scanned document.
- (4) To avoid the time and effort required in uploading the same set of standard documents which are required to be submitted as a part of every bid, a provision of uploading such standard documents (e.g. PAN card copy, annual reports, auditor certificates etc.) has been provided to the bidders. Bidders can use “My Documents” available to them to upload such documents.
- (5) These documents may be directly submitted from the “My Documents” area while submitting a bid and need not be uploaded again and again. This will lead to a reduction in the time required for bid submission process.

2.4.4 Submission of Bids

- (1) Bidder should log into the website well in advance for the submission of the bid so that it gets uploaded well in time i.e. on or before the bid submission time. Bidder will be responsible for any delay due to other issues.
- (2) The bidder has to digitally sign and upload the required bid documents one by one as indicated in the bidding document.
- (3) Bidder has to select the **Online** payment option as provided in the e-tendering portal to pay the e-tendering processing fee (as mentioned on e-tendering portal), EMD/ Bid Security and RFP processing fee as applicable as per the terms of Tender/RFP.
- (4) Bidders are requested to note that they should necessarily submit their financial bids in the format provided and no other format is acceptable. If the price bid has been given as a standard price bid format with the bid document, then the same is to be downloaded and to be filled by all the bidders. Bidders are required to download the price bid file, open it and complete (unprotected) cells with their respective financial quotes and other details (such as name of the bidder). No other cells should be changed. Once the details have been completed, the bidder should save it and submit it online, without changing the filename. If the price bid file is found to be modified by the bidder, the bid will be rejected.
- (5) The server time (which is displayed on the bidders dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the bidders, opening of bids etc. The bidders should follow this time during bid submission.
- (6) All the documents being submitted by the bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. Data storage encryption of sensitive fields is done. Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid opener public keys. Overall, the uploaded bid documents become readable only after the bid opening by the authorized bid openers.
- (7) The uploaded bid documents become readable only after the bid opening by the authorized bid openers.
- (8) Upon the successful and timely submission of bid click **“Complete”** (i.e. after Clicking **“Submit”** in the portal), the portal will give a successful Bid submission acknowledgement & a bid summary will be displayed with the unique id and date & time of submission of the bid with all other relevant details.
- (9) The bid summary has to be printed and kept as an acknowledgement of bid submission.

2.4.5 Assistance to Bidders



RFP for Appointment of Consultant for Preparation of Standardized Bidding Documents for Projects Under the Sagarmala Programme



- (1) For any Query contact to our helpdesk Number 011-49606060, Email helpdeskeuniwizarde@gmail.com, Mr. Anshuman Thakur/ Mr. Akshay/ Mr. Amrendra / Mr.Birendra – 9355030616 / 9355030623/ 9355030628/ 9205898228

3. Instruction to Bidders: Qualifying Criteria & Evaluation Process

3.1 Introduction

- 3.1.1 Applicants are advised that the selection of Consultant shall be based on the evaluation by SDCL (Client) through the selection process specified in this RFP (the “**Selection Process**”). Applicants shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be given and that Client’s decisions are without any right of appeal whatsoever.
- 3.1.2 The Applicants are invited to submit Technical and Financial Proposals (collectively called “**the Proposal**”), as specified in this RFP, for the services required for the consultancy services for “**Preparation of Standardized Bidding Documents for Projects under the Sagarmala Programme**”, hereinafter referred to as the “**Assignment**”. The Proposal will form the basis for contract signing with the Consultant. The Consultant shall submit the Deliverables in accordance with the Terms of Reference of this RFP (the “**ToR**”)
- 3.1.3 The Applicants shall submit the Proposal in the form and manner specified in this RFP. The Proposal shall be submitted as per the forms given in relevant sections herewith. Upon selection, the Consultant shall be required to enter into a Contract with the Client in the form specified in this RFP (the “**Contract**”).
- 3.1.4 Applicants should familiarize themselves with local conditions and take them into consideration in preparing their Proposals.
- 3.1.5 The Client will provide, at no cost to the Consultant, available inputs, if any required to carry out the services.
- 3.1.6 Applicants shall bear all costs associated with the preparation and submission of their proposals, and their participation in the Selection Process, including but not limited to postage, delivery charges, expenses associated with any demonstrations or presentations, attending all the meetings which may be required by Client, or any other costs incurred in connection with or relating to its Proposal. The Client is not bound to accept any Proposal and reserves the right to annul the Selection Process at any time prior to Contract award, without thereby incurring any liability to the Applicants.
- 3.1.7 Client requires that the Consultant provide professional, objective, and impartial advice and always hold Client’s interests’ paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that may place it in a position of not being able to carry out the Assignment in the best interests of Client.

3.2 Brief Description of the Selection Process:

- a) SDCL has adopted a single-stage selection process (referred to as the “**Selection Process**”) for the evaluation of the Proposals.
- b) Bidders shall satisfy the Qualifying Criteria as prescribed in Clause 3.3.
- c) Only those Technical Proposals which are found to fulfill all the qualifying criteria would be eligible for the Financial Proposal opening.

- d) After the technical evaluation is completed, SDCL shall inform the Bidders who have submitted their Proposals and have qualified in the Technical Evaluation for opening of the Financial Proposal.
- e) The Financial Proposal shall be opened in the presence of the Bidders' representatives, who choose to be present at the time of opening of the Financial Proposals.
- f) The qualifying Bidder quoting the lowest fee shall be awarded the assignment and termed as 'Successful Applicant'.

3.2.1 Number of Proposals:

Applicant(s) may submit proposal as sole Applicant only and not as Consortium.

3.3 Qualifying Criteria

- 3.3.1 Eligible assignment means "Preparation of standardized bid documents for central government agencies or multi-lateral organizations".
- 3.3.2 The turnover of the bidder should be Rs 100 crores or more during the last three (3) Financial years i.e., FY 2020-21, 2021-22, 2022-23. Turnover only from Consulting fee will be considered.
- 3.3.3 The bidder firm should have been operational for the last 15 (fifteen) years and should have a dedicated Transportation (maritime, road, railways, aviation) Practice for the last ten (10) years.
- 3.3.4 The bidder should have successfully executed at least 10 projects in the maritime sector.
- 3.3.5 Of the projects executed under clause 3.3.4, at least 3 projects must be the eligible assignments in the last 5 years.
- 3.3.6 Assignment fee for each eligible assignment should be Rs 1.0 crore or more as of 31st March 2023. Fee of eligible assignments undertaken during the past 5 years shall be converted to 2023 terms at 6% rise Y-o-Y. The below formula will be used.

Converted Fee in 2023 = Fee of assignment X $1.06^{(\text{No. of years} = 2023 - \text{Year of assignment})}$

3.3.7 Key Personnel:

- a) The following minimum experts shall be required to be engaged for the assignment:

S No.	Expert	No.	Minimum Qualification Requirement
1	Team Lead	01	Education: Bachelors in Engineering and Masters in Finance. Experience: 20 years of experience in the maritime sector. <ul style="list-style-type: none"> Should have worked on at least 1 eligible assignment
2	Procurement Expert	02	Educational: Bachelors in Engineering and Masters in Finance. Experience: 15 years of experience in procurement in maritime sector. <ul style="list-style-type: none"> Should have worked on at least 1 eligible assignment
3	Marine Expert	01	Educational: Graduate Degree in Marine Engineering. Experience: 15 years of experience in Port Planning & Development.
4	Finance Expert	01	Educational: CA/ICWA/MBA(Fin). Experience: 15 years of experience in the maritime sector.

S No.	Expert	No.	Minimum Qualification Requirement
			<ul style="list-style-type: none"> Should have worked on at least 1 eligible assignment
5	Legal Expert	01	Educational: LLB Experience: 15 years of legal experience in vetting of Contract Documents.
6	Fishery Expert	01	Education: Post-graduation in Fisheries Experience: 10 years of experience in Fishery sector.
7	Aviation Expert	01	Educational: Graduate Degree in Aeronautical/ Aerospace Engineering Experience: 10 years of experience in planning and development of airports

In support of above consultant shall submit the certified CV and qualification details of all above experts.

- b) The above experts shall be deployed by the Consultant on their own premises. However, their availability needs to be ensured by the Consultant till the Final Deliverables are submitted and approved.

3.4 Proposal Opening and Evaluation Process

3.4.1 Proposal Opening

Proposal opening shall be carried out in two stages.

- Technical Proposal of all the bidders received shall be opened online on the date and time mentioned in RFP document.
- Financial Proposal of bidders fulfilling the qualifying criteria shall be opened on a subsequent date, which will be notified to such qualified bidders.

3.4.2 Technical Proposal Evaluation

- Prior to evaluation of Proposals, the Client will determine whether each Proposal is responsive to the requirements of the RFP at the time of evaluation (Test of Responsiveness). A Proposal shall be considered responsive only if:
 - It is received by the Proposal Due Date and time including any extension thereof, given in the Data Sheet.
 - It is accompanied by the Processing Fee.
 - It is accompanied by the EMD.
- Only responsive Proposals shall be further taken up for evaluation. The Client shall evaluate the technical proposals based on qualifying criteria in clause 3.3
- To assist in the examination, evaluation, and comparison of the Proposals, and qualification of the Applicants, the Client may, at its discretion, ask any Applicant for a clarification of its Proposal, giving a reasonable time for response. The Client, however, is not bound to accept the clarification submitted by the Proposal if found irrelevant. Client's request for clarification and the response shall be in writing or email.
- Bidders who fulfill the qualifying criteria shall be eligible for financial bid opening.
- SDCL shall inform the Applicants, whose Technical Proposals fulfill the criteria stipulated in the RFP document about the opening of Financial Proposal.

3.4.3 Financial Proposal Evaluation

- Financial bid of only those Bidders who fulfill the qualifying criteria shall be opened.
- Financial bids will be opened on the pre-informed date and time.

3.4.4 Successful Applicant

- a) The Successful Applicant shall be the qualifying bidder with the lowest fee quoted.

3.5 Negotiation

- 3.5.1 The Successful Applicant may, if necessary, be invited for negotiations. The negotiations shall generally not be for reducing the price of the proposal but will be for re-confirming the obligations of the consultant under this RFP. Issues such as deployment of Key Personnel, scope of work, methodology and quality of work plan shall be discussed during negotiations. In case the Successful Applicant fails to reconfirm its commitment, the Client reserves the right to designate the next ranked Applicant as the Successful Applicant and invite for negotiations.

- 3.5.2 The Client will not normally consider substitutions except in cases of incapacity of Key Personnel for reasons of health. Similarly, after award of contract the Client expects all the proposed Key Personnel to be available during implementation of the Contract. The Client will not consider substitutions during contract implementation except under exceptional circumstances up to a maximum of 1 (one) Key Personnel and that too by only equally or better qualified and experienced personnel.

3.6 Award of contract

- 3.6.1 After selection, a Letter of Award (the “LOA”) will be issued, in duplicate, by the Client to the Successful Applicant and the Successful Applicant shall, within 3 (three) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Successful Applicant is not received by the stipulated date, the Client may, unless it consents to extension of time for submission thereof, appropriate the EMD of such Applicant as mutually agreed genuine pre-estimated loss and damage suffered by the Client on account of failure of the Successful Applicant to acknowledge the LOA, and the next ranked Applicant (L-2) may be considered.

- 3.6.2 **Performance Security:** Performance Security equivalent to 10 (Ten) percent of the accepted amount (plus GST) shall be furnished from a nationalized / Scheduled Bank, before signing of the contract, in form of a Bank Guarantee in the form specified at Appendix. For the Successful Applicant, the Performance Security will be retained by Client until the completion of the Assignment by the Consultant and be released 90 (Ninety) Days after the completion of the Assignment as per the terms of the Contract.

- 3.6.3 **Execution of Contract:** After acknowledgement of the LOA and furnishing of Performance Security as aforesaid by the Successful Applicant, the Successful Applicant shall execute the Agreement within 30 (thirty) days from the date of issue of LOA. The Successful Applicant shall not be entitled to seek any deviation in the Agreement.

- 3.6.4 **Commencement of Assignment:** The Successful Applicant / Consultant is expected to commence the Assignment on the date of Commencement of Service as prescribed in the General Conditions of Contract. If the Successful Applicant fails to either sign the Agreement or commence the Assignment as specified herein, the Client may invite the second ranked Applicant for contract signing. In such an event, the EMD / Performance Security, as the case may be, of the Successful Applicant shall be liable to be appropriated by the Client.

3.7 Confidentiality

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

3.8 Fraudulent and corrupt practices

- 3.8.1 The Applicants and their respective officers, employees, agents, and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the Client will reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice, or restrictive practice (collectively the “Prohibited Practices”) in the Selection Process. In such an event, the Client will, without prejudice to its any other rights or remedies, forfeit and appropriate the EMD, as mutually agreed genuine pre-estimated compensation and damages payable to the Client for, inter alia, time, cost, and effort of the Client, regarding the RFP, including consideration and evaluation of such Applicant’s Proposal.
- 3.8.2 Without prejudice to the rights of the Client under this Clause, hereinabove and the rights and remedies which the Client may have under the LOA or the Agreement, if an Applicant or Consultant, as the case may be, is found by the Client to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Applicant or Consultant shall not be eligible to participate in any tender or RFQ cum RFP issued by the Client during a period of 2 (two) years from the date such Applicant or Consultant, as the case may be, is found by the Client to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 3.8.3 For the purposes of this Clause, the following terms shall have the meaning hereinafter respectively assigned to them:
- a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Client who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Client, shall be deemed to constitute influencing the actions of a person connected with the Selection Process; or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical consultant/ adviser of the Client in relation to any matter concerning the Project;
 - b) “**fraudulent practice**” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
 - c) “**coercive practice**” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;

- d) “**undesirable practice**” means (i) establishing contact with any person connected with or employed or engaged by the Client with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- e) “**restrictive practice**” means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

3.9 Miscellaneous

- 3.9.1 The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts at New Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.
- 3.9.2 The Client, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
 - a) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
 - b) consult with any Applicant in order to receive clarification or further information;
 - c) retain any information and/or evidence submitted to the Client by, on behalf of and/or in relation to any Applicant; and/or
 - d) Independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Applicant.
- 3.9.3 It shall be deemed that by submitting the Proposal, the Applicant agrees and releases the Client, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or future.
- 3.9.4 All documents and other information provided by Client or submitted by an Applicant to Client shall remain or become the property of Client. Applicants and the Consultant, as the case may be, are to treat all information as strictly confidential. Client will not return any Proposal, or any information related thereto. All information collected, analyzed, processed or in whatever manner provided by the Consultant to Client in relation to the consultancy shall be the property of Client.
- 3.9.5 The Client reserves the right to make inquiries with any of the clients listed by the Applicants in their previous experience record.



4. Standard Forms of Contract

CONTRACT FOR CONSULTANCY SERVICES

between

[Sagarmala Development Company Limited]

and

[Name of Consultants]/Lead Member

Dated:

4.1 Form of Contract

Contract to undertake [name of assignment]

This CONTRACT (hereinafter called the “**Contract**”) is made on the [Date in words] day of the month of *month+ *year in “yyyy” format, by and between

Sagarmala Development Company Limited, having its Registered Office at 1st Floor, Thapar House, Gate no. 2, 124, Janpath, New Delhi – 110001, India, hereinafter referred to as the “**Client**” which expression unless repugnant to context or meaning thereof shall include its successors, affiliates and assigns) of the First Part.

and

*Name of Consultants and registered address (hereinafter called the “**Consultant(s)**”) which expression unless repugnant to context or meaning thereof shall include its successors, affiliates and assigns) of the Second Part.

WHEREAS

The Client vide Request of Proposal for the Appointment of Consultant for “**Preparation of Standardized Bidding Documents for Projects Under the Sagarmala Programme**” (hereinafter called the “**Consultancy**”) has requested the Consultants to provide certain consulting services as defined in the General Conditions attached to this Contract (hereinafter called the “**Services**”);

- (a) The consultant submitted its proposal for the aforesaid work, whereby the consultant represented to the Client that it had the required professional skill, personnel, and technical resources, have agreed to provide the services on the terms and conditions set forth in this Contract.’
- (b) The Client, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy to the Consultant vide its Letter of Award No..... dated ----- (the “**LOA**”) and
- (c) In pursuance of the LOA, the parties hereto hereby agree as follows
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 Special Conditions of Contract (hereinafter called “**SC**”);
- (c) The following Appendices:

(i)	Appendix A	:	Terms of reference containing, inter-alia, the Description of the Services and reporting requirements, (reproduce section-5 (ToR))
(ii)	Appendix B	:	Key Personnel, Task assignment, qualification requirements of key Personnel (reproduce as per Form 7G submitted by the Applicant)
(iii)	Appendix C	:	Cost Estimate (reproduce Form 8B submitted by Applicant)
(iv)	Appendix D	:	“ Conformed Document ” which incorporates all the changes, modifications, and results of the contract discussion, if required

(v)	Appendix E	:	Copy of Letter of Award (attached signed copy of Letter issued by Client)
(vi)	Appendix F	:	Copy of letter of Award/ acceptance by Consultant (Attached signed and accepted copy of Letter of Award by Consultant)
(vii)	Appendix G	:	Copy of Bank Guarantee for Performance Security
(viii)	Appendix H	:	Clarifications, if any
(ix)	Appendix I	:	Hours of work for Consultant's Personnel, if required
(x)	Appendix J	:	Correspondence, if any undertaken
(xi)	Appendix K	:	Signed and stamped copy of RFP and all corrigendum issued

- (2) The mutual rights and obligations of the Client and the Consultants shall be as set forth in the Contract; in particular:
- (a) The Consultants shall carry out the Services in accordance with the provisions of the Contract; and
 - (b) Client will make payments to the Consultants in accordance with the provisions of the Contract.
- (3) Priority of documents: The Parties expressly agree that in the event of any conflict, inconsistency or contradiction between any clauses forming part of the documents constituting the Contract, and more particularly mentioned in Clause 1 (of this contract) hereinabove, the documents shall be interpreted in the following order of precedence:
- (c) The provisions of this Contract shall override all provisions of other documents of the Contract.
 - (d) the provisions of the SC shall be subject to the Contract, but shall override all provisions of other documents comprising the Contract;
 - (e) the provisions of the GC shall be subject to the Contract SC, but shall take precedence over all other documents comprising the Contract; and
 - (f) the Appendices shall subject to each of the Contract, SC and the GC
 - (g) Any decision of the Client in relation to the priority of documents shall be final and binding upon the Consultant

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

FOR AND ON BEHALF OF Client
[Signature] [Name] [Designation]

FOR AND ON BEHALF OF CONSULTANT
[Signature] [Name] [Designation]

Witness:

1. [Signature, name and address]
2. [Signature, name and address]

5. Terms of Reference

5.1 Objective of Assignment

The Sagarmala Programme under the aegis of the Ministry of Ports, Shipping and Waterways (MoPSW), has been instrumental in driving development and fostering economic growth through the enhancement of port infrastructure, connectivity, and modernization.

Under the Programme, a wide spectrum of projects is being executed by Port Authorities, Maritime Boards, and other maritime agencies, in line with the Programme's objectives. A broad list of projects covered under the Sagarmala Programme is as mentioned below:

- i) Mechanization and/or upgradation of existing ports.
- ii) Development of new ports / terminals including development of berth/jetty, dredging/breakwater, coastal protection works, etc.
- iii) Development of ship building, ship repair and ship recycling facilities.
- iv) Fish harbour / fish landing centers including floating jetties.
- v) Coastal tourism projects including development of beaches, cruise terminals, light houses etc.
- vi) Development of Ro-Ro jetties and passenger terminals.
- vii) Development of water aerodromes and allied facilities.

However, there is a lack of uniformity in the bidding documents followed by various implementing agencies. This leads to inconsistencies, confusion, inefficiencies, and undue litigation in the procurement process. To streamline the bidding procedures across agencies and projects, a need for a comprehensive and standardized set of bidding documents has been felt.

On behalf of MoPSW, SDCL intends to engage a consultant to standardize bidding documents of various categories of projects related to goods and services within the ambit of Sagarmala Programme.

5.2 Scope of work

Considering the above-mentioned project categories, Consultant shall,

- i) Consult with all Major Ports and Maritime Boards (nodal officers to be provided by SDCL) to understand their bid process and obtain their respective bid documents for projects under the Sagarmala Programme, as listed above.
- ii) Refer to the standard documents available from the World Bank and the Asian Development Bank for related projects. Consultant may also refer the Model Concession Agreement of 2021, the General Financial Rules (GFR) of 2017, guidelines from NITI Aayog, Ministry of Finance (MoF) guidelines and other legal provisions as applicable.
- iii) Study available existing bidding documents from different organization as mentioned in i) and ii) for each category and identify list of areas of Standardization and list the areas of improvement vis-à-vis best practices from legal, finance and business perspectives.
- iv) Prepare standard bid documents (EOI, RFQ, RFP) for each category with the objective of minimizing inconsistencies, confusion, inefficiencies, and undue litigation in the procurement process.
- v) Duly incorporate the comments/observations received on the deliverables from SDCL. Consultant shall also be involved in the approval process of these Standard bidding documents from MoPSW, till the completion of the present assignment as per TOR.

5.3 Terms of Engagement

- i) The duration of assignment will be for a period of 18 weeks from the date of Commencement of Service (i.e. 15th day from the date of issue of LOA or any other date specified in LoA).
- ii) The agreement has to be signed within 30 days of issue of LOA on a stamp paper of Rs 500/-

- which will be bought by the successful bidder. All the formalities regarding the agreement must be completed by both the parties.
- iii) If, however, due to some unavoidable circumstances the Consultant faces a delay in completion of the work, MD or Competent Authority of SDCL may consider providing an extension for a suitable duration on the request of the Consultant by giving proper justification for the desired extension. However, there shall be no change in the fee for such extensions.
 - iv) All final deliverables will be the property of SDCL and Consultant shall not stake claim on the same.
 - v) Consultant shall maintain strict confidentiality of the documents handled by them during the assignment.
 - vi) There shall not be any reimbursement towards Out-of-Pocket Expenses (OPEs)/any other additional expenses incurred by the Consultant in due course of assignment.
 - vii) Consultant shall deploy necessary Experts for the assignment as submitted in their RFP response.
 - viii) The following minimum experts shall be required to be engaged for the assignment:

S No.	Expert	No.	Minimum Qualification Requirement
1	Team Lead	01	Education: Bachelors in Engineering and Masters in Finance. Experience: 20 years of experience in the maritime sector. • Should have worked on at least 1 eligible assignment
2	Procurement Expert	02	Educational: Bachelors in Engineering and Masters in Finance. Experience: 15 years of experience in procurement in maritime sector. • Should have worked on at least 1 eligible assignment
3	Marine Expert	01	Educational: Graduate Degree in Marine Engineering. Experience: 15 years of experience in Port Planning & Development.
4	Finance Expert	01	Educational: CA/ICWA/MBA(Fin). Experience: 15 years of experience in the maritime sector. • Should have worked on at least 1 eligible assignment
5	Legal Expert	01	Educational: LLB Experience: 15 years of legal experience in vetting of Contract Documents.
6	Fishery Expert	01	Education: Post-graduation in Fisheries Experience: 10 years of experience in Fishery sector.
7	Aviation Expert	01	Educational: Graduate Degree in Aeronautical/ Aerospace Engineering Experience: 10 years of experience in planning and development of airports

- ix) The above experts shall be deployed by the Consultant in their premises. However, their availability needs to be ensured by the Consultant till the Final Deliverables are submitted and approved.
- x) The presentations and review meetings on deliverables shall be held in New Delhi.

5.4 Deliverables, Timelines, Payment Terms and Other Conditions

No.	Milestone / Deliverable	Timeline	Payment Term
1	Submission of inception report	D+1 week	10%
2	Collection of reference documents	D + 2 weeks	--
3	Presentation on Findings of document assessment	D + 6 weeks	10%
4	Finalization of the structure of Standard Bidding Document	D + 8 weeks	20%
5	Submission of 1 st Draft (EOI, RFP, RFQ)	D + 12 weeks	20%
6	Submission of 2 nd Draft (EOI, RFP, RFQ)	D + 14 weeks	20%
7	Submission of Final Approved Standard Bidding Documents	D + 18 weeks	20%

D = Date of Commencement.

Other Conditions

- The above payments shall be excluding GST but including any other applicable taxes/levies/cess etc.; GST shall be paid extra as per applicable rates on submission of requisite invoices.
- The Consultant may be required to attend meetings with MoPSW, in addition to the meetings with SDCL.
- The accepted amount shall include all consumables, printing expenses, out of pocket expenses etc. nothing additional shall be paid over and above the financial quoted amount.

6. General Terms and Conditions

6.1 General provisions

6.1.1 Definitions

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

- “Applicable Law”** means the all laws, byelaws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees and any other instruments having the force of law in India as they may be issued and in force from time to time;
- “Affiliate”** means, with respect to any Party, any other entity that, directly or indirectly: (a) Controls such Party; (b) is Controlled by such Party; (c) is Controlled by the same person who, directly or indirectly, Controls such Party; and **“Control”** with respect to any person, shall mean: (a) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person whether through the ownership of voting share capital, by agreement or otherwise or the power to elect more than one-half of the directors, partners or other individuals exercising similar authority with respect to such person; (b) the possession, directly or indirectly, of a voting interest of more than 50%; and the terms **“Controlling”** and **“Controlled by”** shall be construed accordingly;
- “Client”** means the Party named in the Contract, who employs the Consultant;

- (d) **“Consultant” or “Consultants”** means the party named in the Contract, who is employed as an independent professional firm by the Client to perform the Services;
- (e) **“Contract”** means the Contract signed by the Parties, to which these General Conditions of Contract (GC) constitute a part, together with all other documents listed in this signed Contract;
- (f) **“Contract Price”** means the price to be paid for the performance of the Services;
- (g) **“GC”** means the General Conditions of Contract;
- (h) **“Government”** means the Government of Client’s country;
- (i) **“Local Currency”** means the currency of the Government;
- (j) **“Material Adverse Effect”** means material adverse effect on (a) the ability of the Consultant to observe and perform any of its rights and obligations under and in accordance with the provisions of this Agreement and/or (b) the legality, validity, binding nature or enforceability of this Agreement;
- (k) **Deleted**
- (l) **“Party”** means the Client or the Consultants, as the case may be, and Parties means both of them;
- (m) **“Performance Security”** shall mean the irrevocable and unconditional bank guarantee provided by the Consultant from a scheduled Indian bank as guarantee for the performance of its obligations in respect of the Contract;
- (n) **“Personnel”** means persons a full-time employee of the Consultant or hired on contract by the Consultants and assigned to the performance of the Services or any part thereof;
- (o) **“Project”** means “name of assignment”;
- (p) **“SC”** means the Special Conditions of Contract by which these General Conditions of the Contract may be amended or supplemented.
- (q) **“Services”** means the work to be performed by the Consultants pursuant to this Contract as described in ToR;
- (r) **“Sub Consultant”** means any employees appointed by the Consultant as an Expert, if any required in accordance with the provision of this Contract.
- (s) **“Work Order”** means a specific directive or order to perform a defined scope for a defined duration and fee
- (t) **“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.
- (u) **“Fraudulent Practice”** means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Client and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish

prices at artificial non-competitive levels and to deprive the Client of the benefits of free and open competition.

- 6.1.2 Law Governing Contract:** This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Laws of India and shall be subject to the jurisdiction of the Courts at New Delhi.
- 6.1.3 Language:** This Contract has been executed in the language specified in the SC, which shall be binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 6.1.4 Notices:** Any notice, request or consent made pursuant to the 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, telex, email, telegram or facsimile to such Party at the address specified in the SC.
- 6.1.5 Location:** The Services shall be performed at such locations, whether in Country or elsewhere, as the Client may approve.
- 6.1.6 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 in the SC.
- 6.1.7 Taxes and Duties:** Unless otherwise specified in the SC, the Consultants and their Personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.
- 6.1.7.1 The Client shall be entitled to deduct any Taxes required to be deducted/collected at source under Applicable Law from any payments to be made by it to the Consultant.
- Further, in the event that the Client receives notification or assessment of any Taxes (whether as an agent, or in substitution of the Consultant or its Personnel, servants, agents or otherwise) in respect of or arising out of the performance of the Consultant's obligations under this Contract which remain outstanding, the Client shall notify the Consultant of the same and the Consultant shall promptly take all necessary action for settlement and / or any other lawful disposal of such notification or assessment. Furthermore, the Consultant shall pay forthwith on demand to the Client all costs including fines and penalties, which the Client may incur as a result of:
- 6.1.7.1.1 the Client having been required by any governmental authority to pay any Taxes which the Consultant is liable to bear hereunder; or
- 6.1.7.1.2 any cost actually sustained by the Client for failure by the Consultant to pay any Taxes for which it is responsible under this Contract.
- 6.1.8 Interpretation:** In the Contract, unless the context otherwise requires:
- 6.1.8.1 The singular includes the plural and vice versa and any word or expression defined in the singular shall have a corresponding meaning if used in the plural and vice versa. A reference to any gender includes the other gender.
- 6.1.8.2 A reference to any document, agreement, deed, or other instrument (including, without limitation, references to the Contract), includes a reference to any document, agreement, deed or other instrument as may be varied, amended, supplemented, restated or replaced, from time to time.
- 6.1.8.3 A reference to any document, agreement, deed, or other instrument (including, without limitation, references to the Contract), means a reference to such document, agreement, deed or other instrument and to all appendices, annexes, schedules and parts attached or

relatable thereto, all of which shall form an integral part of such document, agreement, deed or other instrument, as the case may be.

- 6.1.8.4 A reference to any Applicable Law includes any amendment, modification, re-enactment or change in interpretation or applicability of such Law and a reference to any statutory body or authority includes a reference to any successor as to such of its functions as are relevant in the context in which the statutory body or authority was referred to
- 6.1.8.5 Where a word or phrase has a defined meaning, any other part of speech or grammatical form in respect of the word or phrase has a corresponding meaning.
- 6.1.8.6 The words “include” and “including” are to be construed without limitation. The terms “herein”, “hereof”, “hereto”, “hereunder” and words of similar purport refer to the Contract as a whole. Where a wider construction is possible, the words “other” and “otherwise” shall not be construed ejusdem generis with any foregoing words.
- 6.1.8.7 In the Contract, headings are for the convenience of reference only and are not intended as complete or accurate descriptions of the content thereof and shall not be used to interpret the provisions of the Contract.
- 6.1.8.8 Any obligation not to do something shall be deemed to include an obligation not to suffer, permit or cause that thing to be done. An obligation to do something shall be deemed to include an obligation to cause that thing to be done.
- 6.1.8.9 The rule of interpretation which requires that a Contract be interpreted against the person or Party drafting it shall have no application in the case of this Contract.
- 6.1.8.10 References to a person (or to a word importing a person) shall be construed so as to include:
 - a) Individual, firm, partnership, trust, joint venture, company, corporation, body corporate, unincorporated body, association, organization, any government, or state or any agency of a government or state, or any local or municipal authority or other Governmental Authority (whether or not in each case having separate legal personality);
 - b) That person’s successors in title and assigns or transferees permitted in accordance with the terms of the Contract;
 - and c) References to a person’s representatives shall be to its officers, Personnel, legal or other professional advisors, subcontractors, agents, attorneys and other duly authorized representatives.

6.2 Deleted

6.3 Commencement, completion, modification, and termination of contract

- 6.3.1 **Effectiveness of Contract:** This Contract shall come into effect on the date the Contract is signed by both Parties or such other date as may be stated in the SC.
- 6.3.2 **Commencement of Services:** The Consultants shall commence the Services from the 15th (Fifteenth) day from the date of issuance of Letter of Award or as directed by the client.
- 6.3.3 **Expiration of Contract:** Unless terminated earlier pursuant to relevant clauses in this contract hereof, this Contract shall expire when Services have been completed and all payments have been made at the end of such time period after the Effective Date as shall be specified in the SC.
- 6.3.4 **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.
- 6.3.5 **Force Majeure**
Definition: For the purposes of this Contract, “**Force Majeure**” means an event which is beyond the reasonable control of a Party, and which makes a Party’s performance of its obligations under the Contract impossible or so impractical to be considered impossible under the circumstances, and

includes, but not limited to war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions.

6.3.5.1 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 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.
- (c) the dates of commencement and estimated cessation of such event of Force Majeure; and
- (d) the manner in which the Force Majeure event(s) affects the Party's obligation(s) under the Contract.

6.3.5.2 The Parties agree that neither Party shall be able to suspend nor excuse the non- performance of its obligations hereunder unless such Party has given the notice specified above.

6.3.5.3 Extension of Time: Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

6.4 Termination of Contract

6.4.1 By the client: The Client may terminate this Contract, by not less than thirty (30) days written notice of termination to the Consultants, to be given after the occurrence of any of the events specified in this clause:

- (a) if the Consultants do not remedy a failure in the performance of their obligations under the Contract, within a period of fifteen (15) days, after being notified or within such further period as the Client may have subsequently approved in writing;
- (b) within thirty (30) days, if the Consultants 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 thirty (30) days;
- (d) within thirty (30) days, if the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to relevant clauses hereof;
- (e) within thirty (30) days, if the Consultant submits to the Client a false statement which has a material effect on the rights, obligations or interests of the Client. If the Consultant places itself in position of conflict of interest or fails to disclose promptly any conflict of interest to the Client;
- (f) within thirty (30) days, if the Consultant, in the judgment of the Client has engaged in Corrupt or Fraudulent Practices in competing for or in executing the Contract;
- (g) if the Client, in its sole discretion and for any reason whatsoever, within a period of thirty (30) days decides to terminate this Contract.

6.4.2 By the Consultants: The Consultants 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 the events specified in this clause:

- (a) if the Client fails to pay any money due to the Consultants pursuant to this Contract and not subject to dispute pursuant to relevant clauses hereof within thirty (30) days after receiving written notice from the Consultants that such payment is overdue; or
 - (b) 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 thirty (30) days.
- 6.4.3 **Cessation of Rights and Obligations:** Upon termination of this Contract pursuant to actual Termination, or upon expiration of this Contract pursuant to relevant clause hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in relevant clause hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records, (iv) the rights of indemnity of the Client specified in clause 6.13.2 and (v) any right which a Party may have under the Applicable Law.
- 6.4.4 **Cessation of Services:** Upon termination of this Contract by notice of either Party to the other pursuant to relevant clauses hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall hand over all project documents under procedure described in this contract.
- 6.4.5 **Payment upon termination:** Upon termination of this Contract, the Client will make the following payments to the Consultant:
- (a) Remuneration pursuant to relevant clauses for Services satisfactorily performed prior to the effective date of termination;
 - (b) If the Contract is terminated pursuant to Clause 6.4.1 a), b), d), e) or f), the Consultant shall not be entitled to receive any agreed payments upon termination of the Contract. However, the Client may consider making payment for the part satisfactorily performed on the basis of the quantum merit as assessed by it, in its sole discretion, if such part is of economic utility to the Client. Under such circumstances, upon termination, the Client may forfeit the performance security provided by the Consultant and also impose liquidated damages as per the provisions of the relevant clauses of this Contract. The Consultant will be required to pay any such liquidated damages to Client within 30 days of termination date.
 - (c) If the contract is terminated pursuant to Clause 6.4.2 (a), the Client will release the performance security after deducting any amount due to SDCL.
- 6.4.6 **Disputes about Events of Termination:** If either Party disputes Termination of the contract under relevant clauses hereof, such Party may, within thirty (30) days after receipt of notice of termination from the other Party, refer the matter to arbitration under relevant clauses hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

6.5 Obligations of the Consultants

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

6.5.2 Conflict of interest

6.5.2.1 Any breach of an obligation under Clause 6.5.1 shall constitute a conflict of interest ("**Conflict of Interest**"). The Consultant shall comply with the provisions of Clause 6.5 and any breach of such an obligation shall constitute an event of default by the Consultant for the purposes of this Contract. The Consultant shall promptly disclose any Conflict of Interest to the Client. For the avoidance of doubt, the Consultant agrees that a disclosure of any Conflict of Interest shall not in any manner whatsoever be deemed to cure such Conflict of Interest.

6.5.2.2 **Consultants Not to Benefit from Commissions, Discounts, etc.:** The remuneration of the Consultants pursuant to relevant clauses hereof shall constitute the Consultant's sole remuneration in connection with this Contract or the Services, and the Consultants shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Consultants shall use their best efforts to ensure that the Key Personnel similarly shall not receive any such additional remuneration.

6.5.2.3 **Consultants and Affiliates Not to Engage in Certain Activities:** The Consultants agree that, during the term of this Contract and after its termination, the Consultants and 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 the period of Two (2) years.

6.5.2.4 **Prohibition of Conflicting Activities:** Neither the Consultants 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; and
- (b) after the termination of this Contract, such other activities as may be specified in the SC.

6.5.3 **Confidentiality:** The Consultants, 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 relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

6.5.4 Subcontracting is not allowed in this Assignment

6.5.5 **Reporting Obligations:** The Consultants shall submit to the Client the reports and documents specified in TOR, in the numbers, and within the periods set forth in this contract.

6.5.6 **Documents Prepared (to the extent applicable) by the Consultants to be the Property of the Client:** All plans, drawings, specifications, designs, reports, other documents and software submitted by the Consultants pursuant to this contract 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 and software, if any, shall be specified in the SC.

6.5.7 **Liability of the Consultants:** Subject to additional provisions, if any, set forth in the SC, the Consultants' liability under this Contract shall be as provided by the Applicable Law.

6.5.8 All the insurance covers that are relevant in such studies shall be taken by the Consultant at its own cost.

6.6 Description of Personnel

6.6.1 Description of Personnel

6.6.1.1 The titles, agreed job descriptions, minimum qualifications and estimated periods of engagement in the carrying out of the Services of the Consultants' are described in this contract. If additional work is required beyond the scope of the Services specified in ToR, the level of effort and / or staff assigned may be increased by agreement in writing between the Client and the Consultants, provided that any such increase shall not, except as otherwise agreed.

6.6.1.2 If required to comply with the provisions of this Contract, adjustments with respect to level of effort, staff assignments, time may be made by the Consultants by written notice to the Client, provided (i) that such adjustments shall not alter the originally estimated period of engagement, scope, qualifications of team or deliverables and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in this Contract. Any other such adjustments shall only be made with the Client's prior written approval.

6.6.2 Removal and / or Replacement of Personnel

- (a) The Client does not encourage replacement of the Consultant by the Applicant unless it has been explicitly asked by the Client.
- (b) If, however, due to some pressing needs, the firm proposes a replacement of Consultant during the course of the assignment, the proposed Consultant shall have similar/ better profile as compared to the Consultant being replaced with regards to Academic Profile, Relevant Work Experience and Relevant Technical Expertise of the consultant being replaced.
- (c) If a Consultant is being replaced, either by the Firm or on instructions of the Client, the replacement of Consultant will have to be onboarded within 30 days with the consent of Client.
- (d) 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 therefore, forthwith provide as a replacement a person with similar/ better qualifications and experience acceptable to the Client.
- (e) Non-performing team members shall be replaced within 30 days of receiving notice from the Client.
- (f) Any of the Personnel provided as a replacement under Clauses 6.6.2 above, the rate of the contract along with other terms and conditions will remain the same.

6.7 Obligations of the client

The Client will assist in providing available inputs/documents/data if any for executing this assignment. However, for avoidance of doubt, it is hereby clarified that under no circumstances it will not dilute the obligation of the Consultant with respect to the Assignment. The Consultant shall solely and wholly responsible for conducting the assignment as per the terms of this contract.

6.8 Payments to the consultants

6.8.1 The consultant will have to raise the invoice after satisfactory completion of the milestones as stipulated in the Terms of Reference.

6.8.2 The Client shall try to make the payment of the Consultants within thirty (30) working days after the receipt of the invoice by the Client with supporting documents.

6.8.3 Currency: The price is payable in local currency i.e. Indian Rupees.

6.9 Settlement of disputes

6.9.1 **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.

6.9.2 **Disputes Settlement:** Any dispute between the Parties as to matters arising out of and relating 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 provision specified in the SC.

6.9.3 **Dispute Resolution:** In the event no amicable resolution or settlement is reached within a period of thirty (30) days from the date on which the above-mentioned dispute or difference arose, such dispute or difference shall be finally settled by arbitration. The arbitral tribunal shall consist of a sole arbitrator appointed by mutual agreement of the parties. In case of failure of the parties to mutually agree on the name of a sole arbitrator, the arbitral tribunal shall consist of three arbitrators. Each party shall appoint one arbitrator and the two arbitrators so appointed shall jointly appoint the third arbitrator. The seat of arbitration shall be New Delhi and the arbitration shall be conducted in the English language. The Arbitration and Conciliation Act, 1996 and subsequent Amendment, if any shall govern the arbitral proceedings. The award rendered by the arbitral tribunal shall be final and binding on the parties.

6.10 Responsibility for accuracy of project documents

6.10.1 General, to the extent applicable to the Assignment

(a) The Consultant shall be responsible for accuracy of the Design, Drawings, estimate and all other details prepared by him as part of these services. The consultant shall indemnify the client against any inaccuracy in the work, which might surface during implementation of the project. The Consultant will also be responsible for correcting, at his own cost and risk, if required during the execution of the Services.

(b) The Consultant shall be fully responsible for the accuracy of reports, plans and drawings. The Consultant shall indemnify the Client against any inaccuracy / deficiency in the reports, designs and drawings noticed and the Client will bear no responsibility for the accuracy of the designs and drawings submitted by the Consultants.

6.11 Liquidated damages and Time Extension

If the selected Consultant fails to complete the Assignment within the period specified under the contract, the consultant shall pay to the Client, fixed and agreed liquidated damages @ 1% of the contract fees for each week of delay or part thereof. The aggregate maximum of liquidated damages payable to the Client under this clause shall be subject to a maximum of 10% of the total contract fees.

If, due to some unavoidable circumstances, the Consultant faces a delay in completion of the work, MD or Competent Authority of SDCL may consider providing time extension for a suitable duration on the request of the Consultant by giving proper justification for the desired extension. However, there shall be no change in the fee for such extensions.

6.12 Representation, warranties, and disclaimer

6.12.1 The Consultant represents and warrants to the Client that:

- (a) it is duly organized, validly existing and in good standing under the applicable laws of its Country;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Contract and to carry out the transactions contemplated hereby;
- (c) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Contract;
- (d) it has the financial standing and capacity to undertake the Assignment;
- (e) this Contract constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (f) it is subject to laws of India with respect to this Contract and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;
- (g) there are no actions, suits, proceedings, or investigations pending or, to the Consultant's knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of or constitute a default of the Consultant under this Contract or materially affect the discharge by the Consultant of its obligations under the Contract.
- (h) no representation or warranty by the Consultant contained herein or in any other document furnished by it to the Client contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and
- (i) no sums, in cash or kind, have been paid or will be paid, by or on behalf of the Consultant, to any person by way of fees, commission or otherwise for securing the Contract or for influencing or attempting to influence any officer or employee of the Client in connection therewith.

6.13 Miscellaneous

6.13.1 Assignment and Charges

- (a) The Contract shall not be assigned by the Consultant save and except with prior consent in writing of the Client, which the Client will be entitled to decline without assigning any reason whatsoever.

- 6.13.2 Indemnity:** The Consultant agrees to indemnify and hold harmless the Client from and against any and all claims, actions, proceedings, lawsuits, demands, losses, liabilities, damages, fines or expenses (including interest, penalties, attorneys' fees and other costs of defence or investigation (i) related to or arising out of, whether directly or indirectly, (a) the breach by the Consultant of any obligations specified in relevant clauses hereof; (b) the alleged negligent, reckless or otherwise wrongful act or omission of the Consultant including professional negligence or misconduct of any nature whatsoever in relation to Services rendered to the Client; (c) any Services related to or rendered pursuant to the Contract (collectively "Indemnified matter"). As soon as reasonably practicable after the receipt by the Client of a notice of the commencement of any action by a third party, the Client will notify the Consultant of the commencement thereof; provided, however, that the omission so to notify shall not relieve the Consultant from any liability which it may have to the Client or the third party. The obligations to indemnify and hold harmless, or to contribute, with

respect to losses, claims, actions, damages and liabilities relating to the Indemnified Matter shall survive until all claims for indemnification and / or contribution asserted shall survive and until their final resolution thereof. The foregoing provisions are in addition to any rights which the Client may have at common law, in equity or otherwise.

6.13.3 Governing Law and Jurisdiction: The Contract shall be construed and interpreted in accordance with and governed by the Applicable Law of India and subject to relevant clauses hereof and the SC, the Courts at New Delhi, India shall have jurisdiction over all matters arising out of or relating to the Contract.

6.13.4 Waiver

(a) Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations or under the Contract:

- (i) Shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under the Contract;
- (ii) Shall not be effective unless it is in writing and executed by a duly authorized representative of such Party; and
- (iii) Shall not affect the validity or enforceability of the Contract in any manner.

(b) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of the Contract or any obligation hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance or any variation or the relinquishment of any such right hereunder.

6.13.5 Survival: Termination of the Contract (a) shall not relieve the Consultant or the Client of any obligations hereunder which expressly or by implication survive Termination hereof, and (b) except as otherwise provided in any provision of the Contract expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

6.13.6 Notices: Unless otherwise stated, notices to be given under the Contract including but not limited to a notice of waiver of any term, breach of any term of the Contract and termination of the Contract, shall be in writing and shall be given by hand delivery, recognized international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses specified in the SC. The notices shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognized international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made through email, telex or facsimile, when transmitted properly addressed to such email, telex number or facsimile number.

6.13.7 Severability: If for any reason whatever any provision of the Contract is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable. Provided failure to agree upon any such provisions shall not be subject to dispute resolution under the Contract or otherwise.

- 6.13.8 **No Partnership:** Nothing contained in the Contract shall be construed or interpreted as constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever.
- 6.13.9 **Language:** All notices required to be given under the Contract and all communications, documentation and proceedings which are in any way relevant to the Contract shall be in the language specified the SC.
- 6.13.10 **Exclusion of Implied Warranties etc.:** The Contract expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by any Party not contained in the Contract.
- 6.13.11 **Counterparts:** The Contract may be executed in two counterparts, each of which when executed and delivered shall constitute an original of the Contract.

6.14 Special Conditions of Contract

The Special Conditions (SC) of contract contains number of amendments and supplements to clauses in the General Conditions of the Contract.

6.1.1(f) The contract price payable in Indian Rupees is..... (exclusive of GST).

6.1.1 (m) Performance Security.

The Consultant shall prior to the Effective Date and as a condition precedent to its entitlement to payment under this Contract, provide to the Client a legal, valid and enforceable Performance Security in the form of an unconditional and irrevocable bank guarantee as security for the performance by the Consultant of its obligations under this Contract, in the form set out in this contract, in an amount equal 10 (ten) percent of the Cost of Financial Proposal (plus GST) under this Assignment. Further, in the event the term of this Contract is extended, the Consultant shall at least fifteen (15) days prior to the commencement of every Subsequent Year or at least thirty (30) days prior to the date of expiry of the then existing bank guarantee, whichever is earlier, provide an unconditional and irrevocable bank guarantee as Performance Security for an amount equivalent to 10 (ten) percent of the Cost of Financial Proposal under this Assignment.

The Performance Security shall be obtained from a scheduled commercial Indian bank, in compliance with Applicable Laws (including, in case the Consultant is a non-resident, in compliance with applicable foreign exchange laws and regulations). {In the event the Consultant is a joint venture consortium, the Performance Security may be provided by any Member; provided that such Performance Security shall mention the details of this Contract and the other Members}

The Performance Security shall be extended accordingly such that the Performance Security remains valid until the expiry of a period of 90 (Ninety) Days from the date of completion of the project under this Contract. If the Client shall not have received an extended / replacement Performance Security in accordance with this clause at least thirty (30) days prior to the date of expiry of the then existing Performance Security, the Client shall be entitled to draw the full amount of the bank guarantee then available for drawing and retain the same by way of security for the performance by the Consultant of its obligations under this Contract until such time as the Client shall receive such an extended / replacement Performance Security whereupon, subject to the terms of this Contract, the Client will refund to the Consultant the full amount of the bank guarantee, unless the Client has drawn upon the Performance Security in accordance with the provisions of this Contract, in which case only the balance amount remaining will be returned to the Consultant; provided that the Client will not be liable to pay any interest on such balance. The Client will return the bank guarantee provided as Performance Security to the issuer thereof for cancellation promptly upon receipt of any extension/ replacement thereof. Subject to satisfactory completion of all deliverables under this Contract, the Performance Security will, subject to any drawdowns by the Client in accordance with the provisions hereof, be released by the Client within a period of 90 (Ninety) Days after the completion of all the Services as per Clause 6.3.3.

The Client shall have the right to claim under the Performance Security and appropriate the proceeds if any of the following occur:

- a) The Consultant becomes liable to pay liquidated damages;
- b) Occurrence of any of the events listed in sub-clauses (a), (b), (d), (e) and (f) of Clause 6.4.1 of the GCC;
- c) any material breach of the terms hereof; and/or
- d) Without prejudice to paragraph above, the Consultant fails to extend the validity of the Performance Security or provide a replacement Performance Security in accordance with the provisions of this Contract.

6.1.3 The language is English.

6.1.4 The client address is [name, designation, telephone, email, facsimile, address].

6.1.4 The consultant address is [name, designation, telephone, email, facsimile, address].

- 6.1.6 The Authorized Representative for the client is [name, designation].
- 6.1.6 The Authorized Representative or (the “Power of Attorney”/Board resolution submitted at the time of bidding) for the consultant is [name, designation].
- 6.1.7 For domestic consultants / personnel and foreign consultants / personnel who are permanent residents in India The Consultants and the personnel shall pay the taxes, duties, fees, levies/expenses and other impositions levied under the existing, amended or enacted laws during life of this contract and the Client will perform such duties in regard to the deduction of such tax as may be lawfully imposed. The Consultant will be paid by the Client only GST over and above the Consultancy fee. All other applicable taxes, levies, duties, etc., if any, shall be borne by Consultant.
- 6.3.1 The date on which this Contract will come into effect is [date].
- 6.3.2 The date on which the consultant commence the services is (15th day from the date of issuance of LOA) [date].
- 6.5.7 Limitation of the Consultant’s Liability towards the Client
- a) Except in case of negligence or willful misconduct on the part of the Consultants or on the part of any person or firm acting on behalf of the Consultants in carrying out the Services, the Consultants, with respect to damage caused by the Consultants to the Client’s property, shall not be liable to the Client:
 - i) for any indirect or consequential loss or damage; and
 - ii) For any direct loss or damage that exceeds (i) the total payments for Professional Fees and Reimbursable Expenditure made or expected to be made to the Consultants hereunder, or (ii) the proceeds the Consultants may be entitled to receive from any insurance maintained by the consultants to cover such a liability, whichever of (i) or (ii) is higher.
 - b) This limitation of liability shall not affect the Consultant’s liability, if any, for damage to Third Parties caused by the Consultants or any person or firm acting on behalf of the Consultants in carrying out the Services.
- 6.8.2 Client will try to release the payment within 30 days of receipt of the invoice and within 60 days in the case of the final payment.
- 6.9.2 Dispute settlement: If any dispute or difference of any kind whatsoever arises between the parties in connection with or arising out of or relating to or under this Contract, the parties shall promptly and in good faith negotiate with a view to its amicable resolution and settlement. In the event no amicable resolution or settlement is reached within a period of thirty (30) days from the date on which the above- mentioned dispute or difference arose, such dispute or difference shall be finally settled by arbitration. The arbitral tribunal shall consist of a sole arbitrator appointed by mutual agreement of the parties. In case of failure of the parties to mutually agree on the name of a sole arbitrator, the arbitral tribunal shall consist of three arbitrators. Each party shall appoint one arbitrator and the two arbitrators so appointed shall jointly appoint the third arbitrator. The seat of arbitration shall be New Delhi and the arbitration shall be conducted in the English language. The Arbitration and Conciliation Act, 1996 and subsequent Amendment, if any shall govern the arbitral proceedings. The award rendered by the arbitral tribunal shall be final and binding on the parties.
- 6.11 Liquidated damages: If the Consultant fails to complete the Assignment, within the Timeline specified under the TOR clause 5.4 Milestone/Deliverables at S. No. 07, the consultant shall pay to the Client, fixed and agreed liquidated damages @ 1% of the contract fees for each week of delay or part thereof. The aggregate maximum of liquidated damages payable to the Client under this clause shall be subject to a maximum of 10% of the total contract fees.

7. Technical Proposal and Standard Forms

FORM 7A: Technical Proposal Submission Form
FORM 7B: General Information of Applicant
FORM 7C: Format for Technical Capacity - (Eligible Assignments)
FORM 7D: Statutory Auditors certificate for Eligible Assignment
FORM 7E: Financial Capacity
FORM 7F: Format of Power of Attorney
FORM 7G: Team Composition of Core Team
FORM 7H: Curriculum Vitae (CV) for Proposed Staff

FORM 7A: Technical Proposal Submission Form

[Location, Date]

To:

General Manager (Projects)
Sagarmala Development Company Limited,
1st Floor, Thapar House, Gate No. 2
124, Janpath, New Delhi – 110001

Subject: RFP for Consultancy for Preparation of Standardized Bidding documents for Projects under the Sagarmala Programme

Dear Sir,

With reference to your RFP document dated, we, having examined all relevant documents and understood their contents, hereby submit our Proposal for selection. The Proposal is unconditional and unqualified.

If negotiations are held during the period of validity of the Proposal, i.e., before [date], we undertake to negotiate based on the proposed staff. Our Proposal is binding upon us, subject only to the modifications resulting from negotiations in accordance with the RFP.

Further:

1. We acknowledge that SDCL will be relying on the information provided in the Proposal and the documents accompanying the Proposal for selection of the Consultant, and we certify that all information provided in the Proposal and in the supporting documents is true and correct. Nothing has been omitted which renders such information misleading; and all documents accompanying such Proposal are true copies of their respective originals.
2. We shall make available to SDCL any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
3. We certify that in the last 3 years, we/any of our Consortium Member have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
4. We declare that:
 - (a) We have examined and have no reservations to the RFP, including any Addendum/corrigendum issued.
 - (b) We do not have any conflict of interest in accordance with the terms of RFP.
 - (c) We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice, or restrictive practice, as defined in the RFP document, in respect of any tender or request for proposal issued by or any agreement entered with Client or any other public sector enterprise or any government, Central or State; and
 - (d) We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice, or restrictive practice.



5. We certify that regarding matters other than security and integrity of the country, we or any of our affiliates have not been convicted by a court of law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Consultancy for the Assignment or which relates to a grave offence that outrages the moral sense of the community.
6. We further certify that regarding matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a court of law for any offence committed by us or by any of our affiliates. We further certify that we have not been barred by the central government, any state government, a statutory body or any public sector undertaking, as the case may be, from participating in any project or bid, and that any such bar, if any, does not subsist as on the date of this RFP.
7. We further certify that no investigation by a regulatory authority is pending either against us or against or against our CEO or any of our Directors / Partners.
8. We agree to keep this offer valid for one hundred eighty (180) days from the Proposal Due Date specified in the RFP.
9. A Power of Attorney in favour of the authorized signatory to sign and submit this Proposal and documents is attached herewith.
10. In the event of our being selected as the Consultant, we agree to enter a Contract in accordance with the contract prescribed in the RFP. We agree not to seek any changes in the aforesaid form and agree to abide by the same.
11. The Technical and Financial Proposal is being submitted. This Technical Proposal read with the Financial Proposal shall constitute the application which shall be binding on us.

We remain
Yours sincerely,

Authorized Signature [In full and initials]:
Name and Title of Signatory:
Name of Firm:

FORM 7B: General Information of Applicant

Details of Applicant

(1) Applicant

- (a) Name:
- (b) Country of incorporation:
- (c) Address of the corporate headquarters and its branch office(s), if any, in India:

(2) Brief Description of the Company including details of its main lines of Business

(3) Details of individual(s) who will serve as the point of contact/ communication for SDCL:

- (a) Name:
- (b) Designation:
- (c) Company:
- (d) Address:
- (e) Telephone Number:
- (f) E-Mail Address:

(4) Details of the Authorized Signatory of the Bidder:

- (a) Name:
- (b) Designation:
- (a) Company:
- (b) Address:
- (c) Phone Number:
- (d) Email Address:

FORM 7C: Format for Technical Capacity - (Eligible Assignments)

Experience

[Using the format below, provide information on each assignment for which your firm, and each associate for this assignment, was legally contracted either individually as a corporate entity or as a Lead Member/Member in Charge of the major companies within an JV/consortium for carrying out consulting services similar to the ones requested under this assignment. In case of the contract jointly executed by the Applicant (as a part of consortium), the Applicants should further support his claim for the share of work done for that particular conduct by producing a certificate from Client or Statutory Auditors Certificate or self-certificate]

- Use Assignments with copy of proof of experience as required for meeting the Qualifying criteria prescribed.
- Exhibit only those Assignments undertaken in the last five (5) years preceding the Proposal Due Date.
- Assignment without the proof of experience will not be considered.

Assignment Name:	Approx. value of the Contract (in INR in Crore)
Country: Location within country:	Duration of assignment (months):
Name of Client:	Total No. of staff-months of the assignment:
Address:	Approx. value of the services provided by your firm under the contract (in INR in Crore)
Start Date (Month/Year): Completion Date (Month/Year):	No: of professional staff months provided by associated Consultants:
Name of Lead Member: Name of Associated Consultants if any	Name of senior professional staff of your firm involved and functions performed (indicate most significant profiles such as Project Director / Coordinator, Team Leader):
Narrative Description of Assignment:	
Description of actual services provided by your staff within the assignment:	

Firm's Name:

Authorized Signature:

Note:

- For the purpose of evaluation of applicants, the exchange rate for USD or other currencies will be considered as the prevailing exchange rate on the date of completion of the assignment.
- Please limit the description of each project to two A4 size sheets of paper. Descriptions exceeding two A4 size sheet of paper shall not be considered for evaluation.



FORM 7D: Statutory Auditors certificate for Eligible Assignment

Use the below format as proof for eligible assignment as per this RFP (where completion certificate is not available)

This is to certify that -----(Name of the Firm) (Registered Address) has completed the following projects and received the full Fee as per the work order/contract. Fees so received have been shown below against the respective projects.

S.No.	Name of Project	Name of Client	Start Date	End Date	Fee as per Work Order/Contract	Fee Received

Name of the Authorized Signatory:

Designation:

Name of the Firm: -----

(Signature of the Statutory Auditor Seal of the Firm)

Note:

- This form shall be submitted on the letter head of the Statutory Auditor,
- Applicant should provide the details of only those projects which are completed and against which the full fees has been received.



FORM 7E: Financial Capacity

Use the below format to exhibit Turnover figure for the past three (3) financial years only

Financial Year	Annual Turnover (in Rs. cr)
2020-21	
2021-22	
2022-23	

Note: The certificate of Annual Turnover is to be provided by the Applicant(s) from its respective Statutory Auditor.

Certificate from the Statutory Auditor

This is to certify that -----(Name of the Firm) (Registered Address) has received the payments / earned revenue shown above against the respective years.

Name of the Authorized Signatory

Designation:

Name of the Firm: -----

(Signature of the Statutory Auditor Seal of the Firm)

Note:

This form shall be submitted on the letter head of the Statutory Auditor

FORM 7F: Format of “Power of Attorney”

(On a Non-Judicial Stamp Paper of appropriate value)

Know all men by these presents, We,(name of organization and address of the registered office) do hereby constitute, nominate, appoint and authorize Mr. / Msson / daughter / wife and presently residing at ... who is presently employed with / retained by us and holding the position of....., as our true and lawful attorney (hereinafter referred to as the "**Authorized Representative**"), with power to sub- delegate to any person, to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Proposal for and selection for the { *Assignment name* }, being undertaken by Sagarmala Development Company Limited (the "**Client**") including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-proposal and other conferences and providing information / responses to the Client, representing us in all matters before the Client, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the Client in all matters in connection with or relating to or arising out of our Proposal for the said Assignment and / or upon award thereof to us till the entering into of the Contract with the Client.

And, we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Authorized Representative pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds, and things done by our said Authorized Representative in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ... DAY OF....., 2023.

For ...

(Signature, name, designation, and address)

Witnesses:

1.

2.

Accepted

(Signature, name, designation and address of the Attorney)

FORM 7G: Team Composition of Core Team

S No.	Proposed Position	Name	Qualification	Total Years of Experience	Years of Experience in Eligible Assignment
1	Team Lead				
2	Procurement Expert - 1				
3	Procurement Expert - 2				
4	Marine Expert				
5	Finance Expert				
6	Legal Expert				
7	Fishery Expert				
8	Aviation Expert				

[Signature of authorized representative of the firm]
Full name of authorized representative:



FORM 7H: Curriculum Vitae (CV) for Proposed Staff

(with one page of summary of experience)

Limit each CV to 5 pages single-sided.

	Proposed Position				
	Name of Firm				
	Name of Staff	[First] [Middle] [Surname]			
	Date of Birth	[Day, Month, Year]	Nationality		
	Education	Indicate college/university and other specialized education of staff member, giving names of institutions, qualifications obtained and year of passing			
	Membership of Professional Organizations				
	Training & Publications:	[Indicate significant training since education degrees (under 5) were obtained]			
	Countries of Work Experience	List countries where staff has worked in the last ten years			
	Languages	Language	Proficiency (good/ fair/ poor)		
			Speaking	Reading	Writing
		English			
		Language 2			
	Employment Record [Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]:	Name of Organization	Position Held	Duration	
	Work Undertaken that Best Illustrates the Required Professional Experience	<p>[Among the assignments in which the Staff has been involved, indicate the</p> <p>Handle the Tasks Assigned</p> <p>following information for those assignments that best illustrates staff's professional experience as per the requirements of this RFP</p> <p>Name of assignment or project:</p> <p>Year:</p> <p>Location: Client:</p>			



		Relevant project features: [size in INR, details of eligible projects and services provided] Positions held: Activities performed:
--	--	--

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications, and my experience. I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

Date:

[Signature of staff member]

Full name of staff:

Date:

[Signature of authorized representative of the firm]

Full name of authorized representative:



8. Financial Proposal - Standard Forms

FORM 8A: Financial Proposal Submission Form

FORM 8B: Summary of Costs



FORM 8A: Financial Proposal Submission Form

[Location] [Date]

To:
General Manager (Projects)
Sagarmala Development Company Limited
1st Floor, Thapar House, Gate No. 2,
124, Janpath, New Delhi – 110001

Dear Sir,

Subject: RFP for Consultancy for Preparation of Standardized Bidding documents for Projects under the Sagarmala Programme

We, the undersigned, offer to provide the services for [name of assignment] in accordance with your Request for Proposal dated [date] and our Proposal. Our attached Financial Proposal (excluding GST) is for the sum of [amount(s) in words and figures].

Our Financial Proposal shall be binding upon us subject to the modifications resulting from arithmetic correction, if any, up to expiration of the validity period of the Proposal, i.e. [date].

We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely —Prevention of Corruption Act 1988.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]:
Name and Title of Signatory:
Name of Firm and Address:

FORM 8B: Summary of Costs

(To be quote on e-tendering website only)

Summary of Cost (Amount in INR)

S No.	Key Personnel	Amount in Figures	Amount in Words
1	Preparation of Standardized Bidding Documents for Projects Under the Sagarmala Programme, as per scope defined in TOR.	To be quoted on e-tendering website only	
	TOTAL		

Note:

- Bidders to note that the above table is for reference purpose only. The rate shall be quoted by the bidders on e-tendering website only.
- The financial quoted amount shall include all consumables, printing expenses, out of pocket expenses etc. nothing additional shall be paid over and above the financial quoted amount.
- The above financial quote is exclusive of GST, which shall be paid on production of required e-invoices.
- In case of any discrepancy in the amount quoted in figures and words, the amount quoted in words shall be considered as quoted amount.
- Our Financial Proposal shall be binding upon us subject to expiration of the validity period of the Proposal i.e., 180 days from the last date of submission of this Proposal.

Appendix I: Format of Bank Guarantee for Performance Security

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

Ref.: LOA No.:

Bank Guarantee: Date:

Expiry Date:

Claim Expiry Date:

In consideration of Sagarmala Development Company Limited (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 [name of consultant] a [type of company], established under laws of [country] and having its registered office at <address> (hereinafter referred to as the “**Consultant**” which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and permitted assigns), an Assignment for preparation of [name of assignment] Contract by issue of Client’s Contract Letter of Award No. <reference> dated [date] and the same having been unequivocally accepted by the Consultant, resulting in a Contract valued at INR [amount in figures and words] for (Scope of Work) (hereinafter called the “**Contract**”) and the Consultant having agreed to furnish a Bank Guarantee amounting to INR [amount in figures and words] to the Client for performance of the said Agreement.

We [Name of Bank] incorporated under [law and country] having its Head Office at [address] (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 an or, all monies payable by the Consultant to the extent of INR [amount in figure and words] as aforesaid at any time up to [date] 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 until the Client discharges this guarantee.

The Client shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee, from time to time to vary the advance or to extend the time for performance of the Contract by the Consultant nor shall the responsibility of the bank be affected by any variations in the terms and conditions of the contract or other documents. The Client shall have the fullest liberty without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Client and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Client and the Consultant any other course or remedy or security available to the client. The Bank shall not be relieved of its obligations under these presents by any exercise by the Client of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Client or any other indulgence shown by the Client or by any other matter or thing whatsoever which under law would but for this provision have the effect of relieving the Bank.

The Bank also agrees that the Client at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Consultant and notwithstanding any security or other guarantee that the client may have in relation to the Consultant’s liabilities.

This Guarantee shall be irrevocable and shall remain in full force and effect until discharge by the Bank of all its obligations hereunder. This Guarantee shall not be affected by any change in the constitution or



winding up of the Consultant / the Bank or any absorption, merger or amalgamation of the Consultant / the bank with any other Person.

Notwithstanding anything contained herein above our liability under this guarantee is limited to INR [amount in figure and words] and it shall remain in force up to and including [date] and shall extend from time to time for such period(s) (not exceeding one year), as may be desired by M/s [name of consultant] on whose behalf this guarantee has been given.

Date this [date in words] day <month> of <year> in ('yyyy' format) at <place>.

WITNESS

1.[signature, name and address]
2.[signature, name and address]

[Official Address] Designation

[With Bank Stamp]

Attorney as Per Power of Attorney No.

Dated

Strike out, whichever is not applicable.

The date will be fixed as indicated in S.C.C.

The stamp papers of appropriate value shall be purchased in the name of bank which issues the “**Bank Guarantee**”. The bank guarantee shall be issued either by a bank (Nationalized / Scheduled) located in India or a foreign bank through a correspondent bank (scheduled) located in India or directly by a foreign bank which has been determined in advance to be acceptable to the Client.