



**DEDICATED FREIGHT CORRIDOR CORPORATION OF INDIA LIMITED
(A GOVERNMENT OF INDIA ENTERPRISE)**

THROUGH

**GENERAL MANAGER/LA & SEMU/EC
5TH FLOOR, PRAGATI MAIDAN METRO STATION BUILDING COMPLEX
NEW DELHI – 110001, INDIA**

Notice Inviting Tender (NIT)

(Tender Document No.- HQ/SEMU/EC/NGO/203/12)

**ENGAGEMENT OF NGO FOR IMPLEMENTATION OF RESETTLEMENT ACTION
PLAN FOR SLICE – 203, FATEHPUR (KM 938) TO NEW BHAUPUR (KM 1046)
TOTAL 114 KMS OF MUGHALSARAI - BHAUPUR SECTION OF EASTERN
DEDICATED FREIGHT CORRIDOR**

[NOT TRANSFERABLE]

[NOT REFUNDABLE]

**PRICE: RS 5000/-
(of bid document)**

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DISCLAIMER

1. Though adequate care has been taken in the preparation of this Tender Document, the NGO (bidder) submitting proposal in response to this NIT should satisfy itself that the Document is complete in all respects.
2. Neither DFCC nor their employees will have any liability to any prospective NGO or any other person under the law of contract expense or damage which may arise from or incurred or suffered in connection with anything contained in this NIT Document, any matter deemed to form part of this NIT Document, the award of the Assignment, the information and any other information supplied by or on behalf of DFCC or their employees, any NGOs or otherwise arising in any way from the selection process for the Assignment.
3. DFCC reserves the right to reject any or all the Proposals submitted in response to this Tender Document at any stage without assigning any reasons whatsoever. DFCC also reserves the right to withhold or withdraw the process at any stage with intimation to all who submitted the Proposal.
4. DFCC reserves the right to change/modify/amend any or all of the provisions of this Tender Document. Bidders will be informed about such changes through e-mail/fax/post.

ABBREVIATIONS

CV	Curriculum Vitae
DFC	Dedicated Freight Corridor
DFCCIL	Dedicated Freight Corridor Corporation of India Limited (A Government of India Enterprises)
NGO	Non Government Organisation
GCC	General Conditions of Contract for Consultancy Contract
INR, Indian Rs.	Indian Rupees (Indian Currency '₹')
IR	Indian Railways
JV	Joint Venture
LS	Lump Sum
MOR	Ministry of Railways
NIT	Notice Inviting Tender
PLR	Prime Lending Rate
SCC	Special Conditions of Contract
TOR	Terms of Reference

SECTION 1

LETTER OF INVITATION FOR BIDS (IFB)

Letter of Invitation for Bids (IFB)

To,

Sub: Engagement of NGO For Implementation Of Resettlement Action Plan For Slice – 203, Fatehpur (Kms 938) to New Bhaupur (Kms 1046) total 114 KMS Of Mughalsarai - Bhaupur Section Of Eastern Dedicated Freight Corridor

Dear Sir,

Dedicated Freight Corridor Corporation of India invites **Open Tender (OT)** for **Engagement of NGO for Implementation of Resettlement Action Plan for Slice – 203, Fatehpur (Kms 938) to New Bhaupur (Kms 1046) total 114 KMS of Mughalsarai – Bhaupur Section of Eastern Dedicated Freight Corridor**

- 1.0 Ministry of Railways (MoR), Government of India have planned to construct Dedicated Freight Corridor (DFC) covering two corridors, Eastern Corridor from Ludhiana to Dankuni and Western corridor from Jawaharlal Nehru Port, Navi Mumbai to Tughlakabad / Dadri near Delhi along with inter-linking of both corridors at Khurja. The proposal entails construction of mostly of Double track railway lines capable of handling 32.5 ton axle load /longer trains and also double stack containers. Dedicated Freight Corridor Corporation of India Limited (DFCCIL), a Government of India Enterprise, is set up for implementation of this project.
- 1.1 Eastern Dedicated Freight Corridor (EDFC) extends from Ludhiana in Punjab to Dankuni near Kolkata, West Bengal. Mughalsarai - Bhaupur section is being considered for funding by the World Bank. This section being highly congested, development of DFC will significantly improve efficiency of both freight and passenger traffic and associated industrial and economic benefits. NGOs are required for assisting the implementation of Resettlement Action Plan in the field. Present section of Mughalsarai - Bhaupur is 393 Kms. The section has been divided into three slices as under,

Slice	Rly. Chainage	Length in Kms
201	Kms 669 to Kms 807	148
202	Kms 807 to Kms 938	131
203	Kms 938 to Kms 1046	114

2.0 DFCC intends to engage a NGO/Consultant (hereinafter referred as the “NGO”) for the work of **Engagement of NGO for Implementation of Resettlement Action Plan for Slice – 203, Fatehpur (Kms 938) to New Bhaupur (Kms 1046) total 114 KMS of Mughalsarai – Bhaupur Section of Eastern Dedicated Freight Corridor.**

3.0 This proposal is invited under “**Single Stage**” **two packet systems**”. The proposal should be submitted in two separate envelopes/packets and both packets put together in one single outer envelope/packet. The two packets shall be marked as under:

Packet 1: Technical Proposal (including EMD & commercial conditions) and

Packet 2: Financial Proposal (Price bid only)

4.0 DFCCIL will not be responsible for any delay, loss or non-receipt of NIT document sent by post/courier. Further, DFCCIL reserves the right to accept/reject any or all proposal without assigning any reason thereof.

5.0 The NGO may apply individually or as a Joint Venture Association. In case of Joint Venture Association, a maximum of 2 (two) NGO firms are permitted. They should also submit proof of JV along with the technical bid.

6.0 Sealed proposals must be received not later than 1500 hrs of 06th December ‘2012 in the manner specified in the Tender document at the address given below.

General Manager/ LA & SEMU/EC

Dedicated Freight Corridor Corporation of India Limited

5th Floor, Pragati Maidan Metro station Building Complex

New Delhi – 110001, INDIA

7.0 **Earnest Money deposit: (EMD) / Bid Security**

Bid must be accompanied by a Earnest Money Deposit of **Rs. 63,523/- (Rupees Sixty Three Thousand Five Hundred Twenty Three only)** by a crossed Demand Draft/Banker’s Cheque/Fixed Deposit Receipt drawn by State Bank of India or any nationalized bank or scheduled bank of India in favour of **DFCCIL, payable at New Delhi**. Bid received without Earnest Money shall be summarily rejected. Please note that no interest is payable on the EMD so long retained in DFCCIL. EMD shall be paid along with Technical Proposal and the Demand Draft/Banker’s Cheques/Fixed Deposit toward EMD shall be placed in the same packet (packet 1) marked “Technical Proposal”.

7.1 Earnest money is liable for forfeiture in following conditions

- (a) On revocation of tender due to increase in rate by the bidder after opening of the tender within validity of period,
- (b) On refusal to accept the work order/Letter of Acceptance the contract is awarded.
- (c) If the work is not commenced by the stipulated date.

7.2 EMD of unsuccessful bidder(s) shall be refunded within reasonable time.

8.0 **Other Details:**

Bidders are advised to note the minimum eligibility criteria specified hereunder and other terms and conditions stipulated in Tender document.

9.0 **Minimum Eligibility Criteria**

- (i) Must have been a registered and reputed NGO/Trust/Non-Profit Company with at least 15 years of experience in the development field with demonstrable skills in the areas of community mobilization, IEC, livelihoods and income generation, governance and social accountability, women empowerment, and resettlement and rehabilitation.
- (ii) It must have three R&R specialists with a minimum of 5 years of work experience with excellent skills in writing and speaking English and must be conversant in Hindi.
- (iii) It must have experience of having implemented projects directly funded by reputed international agencies/NGOs.
- (iv) Its average annual turnover for the last three years must be equal to or more than 150% of the proposed budget for this activity.
- (v) It must have operating field office in the state of Uttar Pradesh.
- (vi) Bidders should submit requisite paper from agency which had deployed the NGO and certificate of satisfactory completion of work. Failing to produce such paper will summarily call for disqualification of the bidder.
- (vii) For working out the total contractual amount received by the tenderer/agency, following documents will be relied upon
 - Certificate from the Government employer,
OR
 - Audited Balance sheet duly certified by the Chartered Accountant,
OR
 - A copy of return filed with IT department duly certified with CA.

9.1 Apart from the document in support of the fulfilling above eligibility criteria, the following document should be submitted along with the tender:

- i) List of completed works in the last three financial years giving description of work,
 - ii) organization for whom it was executed,
 - iii) approximate value of contract,
 - iv) date of award and scheduled completion of work,
 - v) date of actual start, actual completion period and,
 - vi) Final value of contract.
- 9.2 List of works on hand indicating description of work, contract value, and approximate value of balance work yet to be done and date of award.
- 9.3 In support of above documentary/certificate from the Organization(s) with whom they worked/are working should be enclosed.
- 10.0 **Time for opening of offer: - 1600 hrs on 06/12/2012.**
- 10.1 If the date of opening is declared a 'holiday' the tender shall be accepted upto 15.00 hrs of the next working day & be opened at 1600 hrs on the same day.

Address for Communication shall be given below. Interested Bidders may obtain further information from the address:- **General Manager/ LA & SEMU/EC**

**Dedicated Freight Corridor Corporation of India Limited
5th Floor, Pragati Maidan Metro station Building Complex
New Delhi – 110001, INDIA.**

11.0 Tender opening

- 11.1 On the date specified in the tender notice, the envelope of all bidders will be opened in the presence of bidders' representative, who may witness opening of bids. During opening availability of both the envelopes (packet 1 & 2) shall be examined.
- 11.2 Financial Proposal (Price Bids) of technically qualified bidder(s) shall be opened on pre-determined date, time and venue. Bidders, whose financial proposals shall be opened, will be intimated at least 3 days in advance for being present during the opening of bids.

12.0 General

- 12.1 Bid can be submitted on a set of original bid document obtained directly from the DFCCIL or downloaded from the DFCCIL website.
- 12.2 No extension in the due date shall be considered on account of delay in receipt of Bid Document by post. DFCCIL shall not be responsible for not reaching blank Bid document dispatched by DFCCIL at the request of the bidder(s).

13.0 Validity of the Bid

The bidders shall keep their offer open for a minimum period of **90 days** from the due date, which may be extended further, if required at the request of

DFCCIL from time to time. Any contravention of the above condition shall make the bidder liable for forfeiture of his earnest money deposit. The bidders cannot withdraw their offer within the validity period/extended validity period.

14.0 Procedure for Submission of Bid

14.1 Each page of Bid must be signed and sealed by the bidder or its authorized representative in whose name power of attorney is issued. In such case, a copy of power of attorney shall be enclosed. Bids should be submitted in one sealed outer envelope super-scribed as follows:

Tender notice no.:-

Name of work:-

Date & Time of opening of Bid:-

Name & Address of Bidder:-

14.2 Proposal should contain two envelopes which will be contained in one outer envelope. These envelopes should be marked on top of envelope "Technical Proposal" and "Financial Proposal (Price Bid Only)". Technical envelope should contain EMD, technical & commercial proposal should contain all the document of CV and work carried out certificate(s) as mentioned in para 8.0 & 9.0 above. Financial envelope should contain financial proposal i.e. price bid only (section 7). The bidder must quote firm price on lump sum basis for one year contract.

15.0 Time Schedule

The total time for completion of work shall be of 1 (one) year from the date of issue of Letter of Acceptance by DFCCIL. Please note that time is the essence of the Contract.

16.0 The Consultancy contract between successful bidder and DFCC will be governed by General Conditions of Contract (GCC) for Consultancy Contract (Section 6) as amended / supplemented by Special Conditions of Contract (SCC) given in Section 6.

17.0 Bidders are required to give unconditional offers. A conditional offer shall be liable for rejections.

Thanking you,

Yours faithfully,

Dated at New Delhi, theof '2012

GM/LA & SEMU/EC

For and on behalf of DFCCIL

5TH Floor, Pragati Maidan Metro station Building Complex

New Delhi – 110001, INDIA

Forwarding letter

To,

The General Manager/LA & SEMU/EC

Dedicated Freight Corridor Corporation of India Limited
5th floor, Pragati Maidan Metro Station Building Complex,
New Delhi -110001

Ref:- Tender No. HQ/SEMU/EC/NGO/203/12

1. I/We have read the conditions of tender attached hereto and hereby I agree to abide by the laid down conditions. I/we also agree to keep this offer open for a period of **90 days** from the date of Technical Bids opening and in default thereof, I/We will be liable for forfeiture of my/our '**Earnest Money**'. I/We offer to do the work as set out in the Bid Document. I/We also agree to abide by the General Conditions of the Contract and to carry out the work according to Special Conditions as laid down by the DFCCIL for the execution of the subject work.
2. A sum of **Rs. 63,523/- (Rupees Sixty Three Thousand Five Hundred Twenty Three only)** is paid towards Earnest Money Deposit. The value of the earnest money shall stand forfeited without prejudice to any other rights or remedies if:
 - (i) I/We do not start execute the contract agreement within **15 days** from the date of issue of the LOA by DFCCIL.
 - OR
 - (ii) I/We do not commence the work within **7 days** after receipt of LOA to that effect.
3. Until a formal agreement is prepared and executed acceptance of this tender shall constitute a binding contract between ourselves and DFCCIL subject to the modification, as may be mutually agreed and indicated in the LOA or my/our offer for the work.

Signature of
Tenderer/Bidder

Bidders/Tenderer's Address

Signature of Witness

Tel: (STD Code).....

Fax: (STD Code).....

Mobile:

e-mail:

SECTION 2

INSTRUCTIONS TO BIDDERS

INSTRUCTIONS TO BIDDERS

1 INTRODUCTION

Definitions

- a. “Client” means Dedicated Freight Corridor Corporation of India Limited.
 - b. “Consultant” means any entity or person that may provide or provides the Services to the Client under the Contract.
 - c. “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1 that is the General Conditions (GCC), the Special Conditions of Contract (SCC) and the Appendices.
 - d. “Bid Data Sheet” means such part of the Instructions to NGOs used to reflect specific assignment conditions.
 - e. “Day” means calendar day.
 - f. “Government” means the Government of India.
 - g. “Instructions to Consultants” means the document which provides the interested NGOs with all information needed to prepare their Proposals.
 - h. “Personnel” means professionals and support staff provided by the NGO or by any Sub-Consultant and assigned to perform the Services or any part thereof;
 - i. “Local Personnel” means such professionals and support staff who at the time of being so provided had their domicile inside the Government’s country.
 - j. “Proposal” means the Technical Proposal and the Financial Proposal.
 - k. “NIT” means the Notice Inviting Tender (Tender Document) prepared by the Client for the selection of NGOs,
 - l. “Services” means the work to be performed by the NGO pursuant to the Contract.
 - m. “Sub-Consultant” means any person or entity with whom the NGO sub-contracts any part of the Services.
 - n. “**Terms of Reference**” (TOR) means the document included in the NIT as Section 4 which explains the objective, scope of work, activities/tasks to be performed, respective responsibilities of the Client and NGO, and expected results and deliverables of the assignment.
 - o. NGO means Non Government Organization / Trust / Non-profit company.
- 1.1 The Client named in the “Bid Data Sheet” will select an NGO from those NGOs who submitted proposals in accordance with the method of selection indicated in the Bid Data Sheet.
 - 1.2 The NGOs are hereby invited to submit proposal for services required for the assignment in the attached Letter of Invitation (LOI). The Proposal could form the basis for future contract negotiations and ultimately a contract with the selected NGO and DFCCIL.

- 1.3 The NGOs should familiarize themselves with local conditions and take them into account in preparing their proposals. To obtain first hand information on the assignments and the local condition, NGOs are encouraged to pay a visit to the project site at their own risks & cost before submitting the Proposal.
- 1.4 The Client will provide the input specified in the Datasheet and make available the relevant project related reports at no cost to NGO.
- 1.5 NGOs shall bear all cost associated with the preparation and submission of their proposals including negotiations, if required. The Client is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to award of Contract, without giving any reason, thereby incurring any liability to the NGOs.
- 1.6 The Client requires that NGOs to provide professional, objective and impartial advice and at all time hold the Client's interest paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests.
- 1.7 An NGO or any of its affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the NGO to be executed for the same or for another Client.
- 1.8 It is the DFCCIL's policy that the NGOs under contracts observe the highest standard of ethics & professionalism during the selection and execution of such contracts. In pursuance of this policy, the DFCCIL ;
 - (a) Defines, for the purpose of this paragraph, the terms set forth below as follows:
 - (i) **"corrupt practice"** means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;
 - (ii) **"fraudulent practice"** means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;
 - (iii) **"collusive practices"** means a scheme or arrangement between two or more NGOs with or without the knowledge of the Client, designed to establish prices at artificial, noncompetitive levels;
 - (iv) **"Coercive practices"** means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.
 - (b) will reject a proposal for award if it determines that the NGO recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question;
 - (c) will declare a NGO ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the NGO has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract; and

- 1.9 NGOs, their Sub-Consultants, and their associates shall not be under a declaration of ineligibility for corrupt and fraudulent practices. Furthermore, the NGOs shall be aware of the provisions on fraud and corruption stated in the specific clauses in the General Conditions of Contract.
- 1.10 The Bid Data Sheet indicates how long NGOs' Proposals must remain valid after the submission date. During this period, NGOs shall maintain the availability of Professional staff nominated in the Proposal. The Client will make its best effort to complete negotiation within this period. Should the need arise; however, the Client may request NGOs to extend the validity period of their proposals. NGOs who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal, or in their confirmation of extension of validity of the Proposal, NGOs could submit new staff in replacement, who would be considered in the final evaluation for contract award. NGOs who do not agree have the right to refuse to extend the validity of their Proposals.

1.11 Removal and / or Replacement of Personnel

- (a) Except as the Client may otherwise agree, no change shall be made in the Personnel. If, for any reason beyond the reasonable control of the NGOs, it becomes necessary to replace any of the Personnel, the NGOs shall forthwith provide as a replacement a person of equivalent or better qualification and experience.
- (b) If the Client finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action,

Or

has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the NGOs shall, at the Client's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Client.

2 CLARIFICATIONS AND AMENDMENT OF NIT/BID DOCUMENT

- 2.1 NGOs may request a clarification of any of the Tender documents. Any request for clarification must be sent in writing by paper, mail, facsimile, or electronic mail to the Client's address indicated in the Data Sheet. The Client will respond by post, facsimile or electronic mail to such requests.
- 2.2 At any time before the submission of Proposals, the Client may for any reason, whether at its own initiative or in response to a clarification requested by an invited firm, modify the Tender documents by amendment. Any amendment shall be issued in writing through addenda. Addenda shall be sent by mail, facsimile or electronic mail to all the bidders/ NGOs. The Client may at its discretion extend the deadline for the submission of Proposals.

3 PREPARATION OF PROPOSAL

- 3.1 An NGO shall submit only one offer against the bid. In case, a NGO submits more than one offer, such an NGO will be summarily disqualified without assigning any reason thereof.
- 3.2 The proposal should include a covering letter (forwarding letter sample of which is attached) signed by person(s) with full authorization to make legally binding contractual (including financial) commitments on behalf of the NGO. The letter should specify all association arrangement and certify that each associated NGO performs its designated tasks under the assignment if the lead NGO is awarded the contract.
- 3.3 NGOs are requested to submit a Technical and Financial proposal in the language as specified in the Bid Data Sheet, in two parts in two separate envelopes/packets and put together in one single outer envelope/packet. The two packets shall be marked as shown below:

Packet-1: Technical Proposal (including EMD & commercial conditions) and

Packet-2: Financial Proposal (price bid only)

Packet 1: Technical Proposal (including EMD & commercial conditions)

- 3.4 In preparing the Technical Proposal, NGOs are expected to read all terms and conditions included in the document. Failure to provide all requested information will be at its own risk and may result in rejection of the proposal submitted by the NGO.
- 3.5 NGOs must give particular attention to the following:
- (i) **Earnest Money deposit: (EMD)**
Bids must be accompanied by a Earnest Money Deposit of **Rs. 63,523/- (Rupees Sixty Three Thousand Five Hundred Twenty Three only)** by a crossed Demand Draft/ Fixed Deposit Receipt/Banker's Cheque drawn on State Bank of India or any other nationalized bank or scheduled bank of India drawn in favour of **DFCCIL, payable at New Delhi**. Bids received without Earnest Money shall be summarily rejected.
 - (ii) The professional staffs proposed shall remain employed with the NGO for a minimum period of 1 (One) year.
 - (iii) No alternative to professional staffs shall be proposed and only one Curriculum Vitae (CV) shall be submitted for each position. Normally professional staffs will not be changed unless;
 - a) If the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or
 - b) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the NGO shall, at the Client's written request specifying the grounds therefore, forthwith provides as a replacement a person with qualification and experience acceptable to the clients.

- (iv) A good working knowledge of the language specified in the Bid Data Sheet is essential for all professional in staffs proposed for the subject work. Reports must be written / prepared in English only.
- (v) Bidders shall give an affidavit that during last three years (to be reckoned from date of invitation of tender) no work was cancelled against them for poor performance. If at any stage till finalization, work cancelation comes to the notice of tender committee nominated by DFCCIL for selection of successful bidder, offer of the bidder will summarily be rejected even if that bidder stands lowest. In such case next higher bidder will be considered.
- (vi) Joint ventures are allowed as detailed in the Data Sheet. However, lead partner of the JV must be the recipient of NIT.

3.6 The packet (Packet 1) containing technical proposal shall be opened first on the due date and be evaluated based on the eligibility criteria as given in NIT document. Financial proposal (Packet-2) of only technically qualified bidders will be opened. Non submission of any requisite document will deprive the bidder from eligibility. Generally, no clarification will be sought from bidding bidders. However DFCCIL reserves the right to seek clarification whenever necessary. Bidders are requested to submit all documents in connection with eligibility in 'Technical Proposal' (packet-1) envelope. Those bidders qualifying after technical scrutiny will be informed of the date, time and venue of opening of financial bid at least 3 days in advance. Financial bid will not be opened for technically unsuccessful bidders. The final selection of the NGO will be based on the Cost Basis of those bidders found eligible after technical scrutiny. The lowest bidder among technically acceptable bidders will be awarded the work. Please note that no query regarding selection of successful bidders shall be entertained.

3.7 The NGO should provide the following information using but not limited to the formats attached in **Section 5**:

- i) A description of the methodology (work plan) which the firm proposes to execute the services, illustrated with bar chart of activities. (Tech-2)
The composition of the proposed staff team, the tasks which shall be assigned to each and their timing (Tech-3)
- iii) CVs *originally* signed in **blue ink** on each page by the proposed professional staff **and** the authorized representative submitting the proposal. The key information should include the information as requested in form Tech-4. **Photocopy and unsigned CV shall not be considered.** Following document shall also be attached along with respective CVs
 - (a) Self Attested copies of the educational/ professional qualifications including certificate of 10th standard indicating date of birth.
 - (b) Self attested copy of PAN Card.
- iv) Estimates of the total staff effort (professional and support staff, staff time) to be provided to carry out the Assignment, supported by bar

chart diagrams showing the time proposed for each professional staff team member (Tech-2).

- v) Any additional information requested in the Data Sheet.
- 3.8 The Technical Proposal shall not include Price Bid. A Technical Proposal containing Price Bid shall be declared non responsive and rejected.
- 3.9 The technical packet should contain
- a) Forwarding Letter given in the Bid document.
 - b) Demand Draft /Banker's Cheque/ Fixed Deposit towards EMD.
 - c) Power of Attorney of authorized person who signed the tender document.
 - d) CVs *originally* signed in blue ink on each page by the proposed professional staff.
 - e) Completion papers of any single work of 35% value of advertised value of work duly certified by concerned department.
 - f) Requisite papers showing payment certificate from the tenderer duly issued by the Officer of concerned Government. It should be a minimum of 150% of advertised tender value of work.
 - g) An affidavit having declaration that no work on account of Firm's failure has been cancelled by any organisation during last three years from the date to be reckoned from date of opening of tender.
 - h) JV document as proof of Joint ventures as detailed in the Bid Data Sheet.
 - i) Technical Proposal (section-5).
 - j) A certified copy of partnership deed or article of memorandum in case of Pvt. Ltd. Company.
 - k) Commercial conditions, if any.
 - l) Employer's requirements, if any (refer Section -6).
 - m) Bid document duly signed on all pages except section 10 which will form part of financial packet and will be submitted in the Packet-2 containing financial package duly signed.

Packet-2: Financial Proposal

- 3.10 For Financial proposal/offer, NGO shall quote lump sum price in the schedule enclosed with the NIT document. (FIN-2). Total price offered is inclusive of all taxes and duties except service tax which will be reimbursed separately on production of proof of the payment thereof. It is the responsibility of NGO to ascertain whether service tax is payable and rate thereof. NGOs have to assess all other Taxes and shall inbuilt them in their financial proposal. These taxes (other than service tax) would not be paid separately. **Price offered shall remain firm till the validity of the offer and no variation/suo-motto rebate/reduction or escalation shall be permitted.**

- 3.11 NGOs shall express the price of their services in the Local currency (Indian Rupees) only.

4 SUBMISSION, RECEIPT, AND OPENING OF PROPOSALS

- 4.1 The original proposal shall be prepared in indelible ink. It shall contain no inter-lineation or overwriting, except as necessary to correct errors made by the bidders itself. Any such corrections must be initialed by the person or persons who sign(s) the Proposals.
- 4.2 An authorized representative of the firm shall initial all pages of the Proposal in blue ink. The representative's authorization in *original/notarized* is confirmed by a written Power of Attorney accompanying the Proposal.
- 4.3 NGOs shall submit one "Original" proposal only. The envelope must be clearly marked "**DO NOT OPEN, EXCEPT IN THE PRESENCE OF DFCCIL'S REPRESENTATIVES**"
- 4.4 Completed proposal must be delivered at the clients address on or before the date and time stated in the Data Sheet. The Bidder must check if all required document are enclosed as per above checklist (3.9) in the Packet -1 (Technical Proposal) before submission. Any proposal received after the closing time for submission of the proposals shall be returned unopened.

5 PROPOSAL EVALUATION

On the date specified in the tender notice, single packet containing Technical & Financial proposal of all tenderers will be opened in the presence of bidders/ their representative(s). The Technical Proposal shall also be opened same day and time. However, Financial Proposals of only technically successful bidders shall be opened at a later date, which will be intimated to the technically successful bidders at least 3 days in advance.

Proposal shall be opened and evaluated based on the eligibility criteria as given in NIT document as well as based on the financial offers. The final selection of the NGO will be based on lowest financial offer among technically successful bidders subject to fulfilling the minimum eligibility criteria and other terms and condition of NIT document.

6 AWARD OF CONTRACT

- 6.1 The DFCCIL will issue a letter of award to the successful NGO.
- 6.2 Within **15 days** from the date of issue of the letter of award, the successful NGO will be required to (i) execute the Contract Agreement for NGO Services as per General Conditions of Contract for NGO Services (**section 6**) and as amended and supplemented by Special Conditions of Contract (**section 6**) and (ii) furnish Performance Guarantee as per **para 5.12** of General Conditions of Contract and as per the formats given in Annexure-1 (section-6).
- 6.3 The successful NGO with whom the contract is awarded shall commence the assignment within **7 days** from the date of issue of LOA.

6.4	Instructions to Bidders
	<p>Eligible Bidders</p> <p>A Bidder shall be a Non Govt. Organization/Trust/Non Profit Company, legal entity or any combination of them in the form of joint venture (JV) with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture (JV). The bidder must ensure the following:</p> <p>a. In case of Single Entity:</p> <p>(i) The applicant should be an Indian firm</p> <p>ii) Submit Power of Attorney authorizing the signatory of the bid to commit the bidder.</p> <p>b. In case of Joint Venture:</p> <p>(i) Separate identity/name shall be given to the Joint Venture Firm.</p> <p>(ii) Maximum number of partners in the JV shall be limited to 2 (Two).</p> <p>(iii) A member of JV firm shall not be permitted to participate either in individual capacity or as a member of another JV firm in the same tender.</p> <p>(iv) Lead partner of the JV must be the recipient of NIT.</p> <p>(v) One of the members of the JV firm shall be its lead member who shall have majority (at least 51%) share of interest in the JV firm. The other members shall have a share of not less than 20% each in case of JV firms with upto 2 members.</p> <p>(vi) In case of JV firm with foreign member(s), the lead member has to be an Indian firm with a minimum share of 51%.</p> <p>(vii) Bidder from a country may be excluded if as a matter of law or official regulations the Government of India (GOI) prohibits commercial relations with the country.</p> <p>(viii) Joint And Several Liability - Members of the JV Firm to which the contract is awarded, shall be jointly and severally liable to the Employer (DFCCIL) for execution of the project in accordance with General and Special Conditions of Contract. The JV members shall also be liable jointly and severally for the loss, damages caused to the DFCCIL during the course of execution of the contract or due to non-execution of the contract or part thereof.</p> <p>(ix) Duration of the Joint Venture Agreement - shall be valid during the entire currency of the contract including the period of extension, if any and the defect liability period after the work is completed.</p> <p>(x) Governing Laws - The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.</p>

	<p>(xi) The JV shall nominate a representative (from lead partner only) who shall have the authority to conduct all business for and on behalf of JV during the bidding process and subsequent stages.</p> <p>(xii) Normally BID SECURITY shall be submitted only in the name of the JV Firm and not in the name of constituent member. However, in exceptional cases BID SECURITY in the name of Lead Member can be accepted subject to submission of specific request letter from Lead Member stating the reasons for not submitting BID SECURITY in the name of JV Firm and giving written confirmation from JV members to the effect, that BID SECURITY submitted by the Lead Member may be deemed as BID SECURITY submitted by JV Firm.</p> <p>(xiii) A copy of Memorandum of Understanding (MOU) executed by the JV members shall be submitted by the JV Firm along with the Tender. The complete details of the members of the JV firm, their share and responsibility in the JV firm etc. particularly with reference to financial, technical and other obligations shall be furnished in the MOU.</p> <p>(xiv) Once the tender is submitted, the MOU shall not be modified / altered / terminated during the validity of the tender. In case the bidder fails to observe/comply with this stipulation, the full Bid Security Deposit shall be liable to be forfeited.</p> <p>(xv) Approval for change of constitution of JV Firm shall be at the sole discretion of the Employer (DFCCIL). The constitution of the JV Firm shall not be allowed to be modified except when modification becomes inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. However, the Lead Member shall continue to be the Lead Member of the JV Firm. Failure to observe this requirement would render the offer invalid.</p> <p>xvi) Similarly, after, the contract is awarded, the constitution of JV Firm shall not be allowed to be altered during the currency of contract except when modification become inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. Failure to observe this stipulation shall be deemed to be breach of contract with all consequential penal action as per contract conditions.</p> <p>xvii) On award of contract to a JV Firm, a single Performance Guarantee shall be submitted by the JV Firm as per tender conditions. All the Guarantees like Performance Guarantee, Bank Guarantee for Mobilization Advance, Machinery Advance, etc. shall be accepted only in the name of the JV Firm and no splitting of guarantees amongst the members of the JV Firm shall be permitted.</p> <p>xviii) On issue of LOA (Letter Of Acceptance), an agreement among the members of the JV Firm (to whom the work has been awarded) shall be executed and got registered before the Registrar of the Companies under Companies Act or before the Registrar/Sub-Registrar under the Registration Act, 1908. This JV Agreement shall be submitted by the JV Firm to the DFCCIL before signing the contract agreement for the work. In case the tenderer fails to</p>
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	<p>observe/comply with this stipulation, the full BID SECURITY shall be forfeited & other penal actions due shall be taken against partners of the JV.</p> <p>xix) No member of the Joint Venture Firm shall have the right to assign or transfer the interest right or liability in the contract without the <i>written</i> consent of the other members and that of the employer (DFCCIL) in respect of the said tender/<i>contract</i>.</p> <p>xx) <i>In case</i> one or more of the members of the JV Firm is/are partnership firm(s), following documents shall be submitted :</p> <p style="padding-left: 40px;">a) Notary certified copy of the Partnership Deed</p> <p style="padding-left: 40px;">b) Consent of all the partners to enter into the Joint Venture /Agreement on a stamp paper <u>of appropriate value (in original)</u>.</p> <p style="padding-left: 40px;">c) Power of Attorney (duly registered as per prevailing law) in favour of one of the partners of the partnership firm to sign the JV Agreement on behalf of the partnership firm and create liability against the firm.</p> <p>xxi) In case one or more members is/are Proprietary Firm or HUF, the following documents shall be <i>enclosed</i> :</p> <p style="padding-left: 40px;">Affidavit on Stamp Paper of appropriate value declaring that his/her Concern is a Proprietary Concern and he/she is sole proprietor of the Concern OR he/she is in position of "KARTA" of Hindu Undivided Family (HUF) and he/she has the authority, power and consent given by other <i>partners</i> to act on behalf of HUF.</p> <p>xxii) In case one or more members is/are limited companies, the following documents shall be submitted :</p> <p style="padding-left: 40px;">a) Notary certified copy of resolutions of the Directors of the Company, permitting the company to enter into JV agreement, authorizing MD or one of the Directors or Managers of the Company to sign JV Agreement, such other documents required to be signed on behalf of the Company and enter into liability against the company and/or do any other act on behalf of the company.</p> <p style="padding-left: 40px;">b) Copy of Memorandum and Articles of Association of the Company.</p> <p style="padding-left: 40px;">c) <u>Power of Attorney (duly registered as per prevailing law) by the Company authorizing the person to do/act mentioned in the para (a) above.</u></p>
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Applicant’s Party Information Form

[The following form should be filled in for the Applicant’s parties including partner(s) of a joint venture, sub-contractors]

Date: [insert day, month, year]

Bid Document No.:

Page [inset page number] of [insert total number] pages

JV applicant legal name: [insert full legal name]
Applicant’s Party legal name: [insert full legal name of Applicant’s Party]
Applicant’s Party country of registration: [indicate country of registration]
Applicant Party’s year of constitution: [indicate year of constitution]
Applicant Party’s legal address in country of constitution: [insert street/number/town or city/country]
Applicant Party’s authorized representative information Name: [insert full legal name] Address: [insert street/number/town or city/ country] Telephone/Fax numbers: [insert telephone/fax numbers, including country and city codes] E-mail address: [indicate e-mail address]
Attached are copies of original documents of Articles of Incorporation or Documents of Constitution, and Registration Documents of the legal entity named above, in accordance with ITB 3.1(b).

Note: Separate form is required for all individual participants (members) in the JV as well as sub-contractor.

**DRAFT MEMORANDUM OF UNDERSTANDING (MOU3)
For
JOINT VENTURE PARTICIPATION
BETWEEN**

M/s having its registered office at (hereinafter referred to as) acting as the Lead Partner of the first part,

and

M/shaving its registered office at (hereinafter referred to as `.....') in the capacity of a Joint Partner of the other part.

The expressions of and shall wherever the context admits, mean and include their respective legal representatives, successors-in-interest and assigns and shall collectively be referred to as "the Parties" and individually as " the Party"

WHEREAS:

Dedicated Freight Corridor Corporation of India Limited (DFCCIL) [hereinafter referred to as "Client"] has invited bids for ... "[Insert name of work]....."

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The following documents shall be deemed to form and be read and construed as an integral part of this MOU.
 - i) Notice for Bid, and
 - ii) Bidding document
 - iii) Any Addendum/Corrigendum issued by Dedicated Freight Corridor Corporation of India Limited
 - iv) The bid submitted on our behalf jointly by the Lead Partner.
2. The `Parties' have studied the documents and have agreed to participate in submitting a `bid' jointly.
3. M/sshall be the lead member of the JV for all intents and purpose and shall represent the Joint Venture in its dealing with the Client. For the purpose of submission of bid proposals, the parties agree to nominate as the leader duly authorized to sign and submit all documents and subsequent clarifications, if any, to the Client. However M/s..... shall not submit any such proposals, clarifications or commitments before securing the written clearance of the other partner which shall be expeditiously given by M/s.....
4. The `Parties' have resolved that the distribution of responsibilities and their proportionate share in the Joint Venture is as under:
 - (a) Lead Partner
 - (i)
 - (b) Joint Venture Partner
 - (i)

[Similar details to be given for each partner]

5. JOINT AND SEVERAL RESPONSIBILITIES

The Parties undertake that they shall be jointly and severally liable to the Client in the discharge of all the obligations and liabilities as per the contract with the Client and for the performance of contract awarded to their JV.

6. ASSIGNMENT AND THIRD PARTIES

The parties shall co-operate throughout the entire period of this MoU on the basis of exclusivity and neither of the Parties shall make arrangement or enter into agreement either directly or indirectly with any other party or group of parties on matters relating to the Project except with prior written consent of the other party.

7. EXECUTIVE AUTHORITY

The said Joint Venture through its authorized representative shall receive instructions, payments from the Client. The management structure for the project shall be prepared by mutual consultations to enable completion of project to quality requirements within permitted cost and time.

8. BID SECURITIES

Till the award of the work, JV firm/Lead Partner of JV firm shall furnish Bid Security to the Client on behalf of the joint venture which shall be legally binding on all the members of the Joint Venture.

9. BID SUBMISSION

Each Party shall bear its own cost and expenses for preparation and submission of the bid and all costs until conclusion of a contract with the Client for the Project. Common expenses shall be shared by all the parties in the ratio of their actual participation.

10. INDEMNITY

Each party hereto agrees to indemnify the other party against its respective parts in case of breach/default of the respective party of the contract works of any liabilities sustained by the Joint Venture.

11. For the execution of the respective portions of works, the parties shall make their own arrangements to bring the required finance, plants and equipment, materials, manpower and other resources.

12. DOCUMENTS & CONFIDENTIALITY

Each Party shall maintain in confidence and not use for any purpose related to the Project all Commercial and technical information received or generated in the course of preparation and submission of the bid.

13. ARBITRATION

Any dispute, controversy or claim arising out of or relating to this agreement shall be settled in the first instance amicably between the parties. If an amicable settlement cannot be reached as above, it will be settled by arbitration in accordance with the Indian Arbitration and Conciliation Act 1996 or any amendments thereof. The venue of the arbitration shall be Delhi.

14. VALIDITY

This Agreement shall remain in force till the occurrence of the earliest to occur of the following, unless by mutual consent, the Parties agree in writing to extend the validity for a further period.

- a. The bid submitted by the Joint Venture is declared unsuccessful, or
- b. Cancellation/ shelving of the Project by the client for any reasons prior to award of work
- c. Execution of detailed JV agreement by the parties, setting out detailed terms after award of work by the Client.

15. This MoU is drawn in number of copies with equal legal strength and status. One copy is held by M/s and the other by M/s..... and a copy submitted with the proposal.

16. This MoU shall be construed under the laws of India.

17. NOTICES

Notices shall be given in writing by fax confirmed by registered mail or commercial courier to the following fax numbers and addresses:

Lead Partner

Other Partner(s)

.....

.....

.....

.....

(Name & Address)

(Name & Address)

IN WITNESS WHEREOF THE PARTIES, have executed this MOU the day, month and Year first before written.

M/s.....

M/s.....

.....

.....

(Seal)

(Seal)

Witness

1..... (Name & Address)

2..... (Name & Address)

Notes:

- 1. In case of existing joint venture, the certified copy of JV Agreement may be furnished.

DRAFT FORMAT OF JOINT VENTURE AGREEMENT

To be executed on non-judicial stamp paper of appropriate value in accordance with relevant Stamp Act and to be registered with appropriate authority under Registration Act. The JV agreement shall be structured generally as per contents list given below:

A. CONDITIONS AND TERMS OF JV AGREEMENT

1. Definitions and Interpretation
2. Joint Venture – Include Equity of members, transferability of shareholding of equity of a partner leaving during the subsistence of the contract.
3. Proposal Submission
4. Performance – To indicate scope of responsibility of each member
5. Language and Law
6. Exclusively
7. Executive Authority
8. Documents
9. Personnel
10. Assignment and Third Parties
11. Severability
12. Member in Default
13. Duration of the Agreement
14. Liability and sharing of risks
15. Insurance
16. Sharing of Promotion and Project Costs, Profits, Losses and Remuneration
17. Financial Administration and Accounting
18. Guarantees and Bonds
19. Arbitration
20. Notices
21. Sole Agreement and Variation

B. SCHEDULES

1. Project and Agreement Particulars
2. Financial Administration Services
3. Allocation of the obligations
4. Financial Policy and Remuneration

PRO-FORMA LETTER OF PARTICIPATION FROM EACH PARTNER OF JOINT VENTURE (JV)

(To be executed on non-judicial stamp paper of appropriate value in accordance with relevant Stamp Act and to be registered with appropriate authority under Registration Act.)

No.....

Dated:.....

From:

.....
.....

To,

The General Manager,

Dedicated Freight Corridor Corporation of India Limited

5th Floor, Pragati Maidan Metro Stn. Building Complex.,

New Delhi 110001.

Gentlemen,

Re: ...“[Insert name of work].....”.

Ref: Your notice for Invitation for Bid (IFB) No. dated.....

1. We wish to confirm that our company/firm has formed a Joint Venture with i)..... & ii)..... for the purposes associated with IFB referred to above.

*(Members who are not the lead partner of the JV should add the following paragraph)**

2. 'The JV is led by whom we hereby authorise to act on our behalf for the purposes of submission of Bid for and authorise to incur liabilities and receive instructions for and on behalf of any and all the partners or constituents of the Joint Venture.'

OR

*(Member(s) being the lead member of the group should add the following paragraph)**

2. 'In this group we act as leader and, for the purposes of applying for Bid, represent the Joint Venture:

3. In the event of our JV being awarded the contract, we agree to be jointly with i) & ii) (names of other members of our JV) and severally liable to the Dedicated Freight Corridor Corporation of India Limited, its successors and assigns for all obligations, duties and responsibilities arising from or imposed by the contract subsequently entered into between Dedicated Freight Corridor Corporation of India Limited and our JV.
4. *I/We, further agree that entire execution of the contract shall be carried out exclusively through the lead partner.

Yours faithfully,

(Signature)

(Name of Signatory).....
(Capacity of Signatory).....

Company Seal
applicable

* Delete as

Note : In case of existing joint venture, the certified copy of JV Agreement may be furnished.

**FORMAT FOR POWER OF ATTORNEY FOR AUTHORISED SIGNATORY OF
JOINT VENTURE (JV) PARTNERS**

POWER OF ATTORNEY*

(To be executed on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act. The stamp paper to be in the name of the company who is issuing the power of Attorney)

Know all men by these presents, we do hereby constitute, appoint and authorise Mr/Ms..... who is presently employed with us and holding the position ofas our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for the work ofIncluding signing and submission of all documents and providing information/responses to Dedicated Freight Corridor Corporation of India Limited, representing us in all matters, dealing with Dedicated Freight Corridor Corporation of India Limited in all matters in connection with our bid for the said project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

Dated this the day of 2012.

(Signature of authorised Signatory)

Signature of Lead Partner

.....

Signature of JV Partner(s)

.....

(Signature and Name in Block letters of Signatory)

Seal of Company

Witness

Witness 1:

Witness 2:

Name:

Name:

Address:

Address:

Occupation:

Occupation:

**Notes:*

i) To be executed by all the partners jointly, in case of a Joint Venture.

**FORMAT FOR POWER OF ATTORNEY TO
LEAD PARTNER OF JOINT VENTURE (JV)**

(To be executed on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act. The stamp paper to be in the name of the company who is issuing the power of Attorney)

POWER OF ATTORNEY

Whereas Dedicated Freight Corridor Corporation of India Limited has invited Bids for the **work of hiring of NGO for RAP for Fatehpur (Kms 938) to New Bhaupur (Kms 1046) total 114 KMS of Eastern Dedicated Freight Corridor.**

Whereas, the members of the Joint Venture comprising of M/s. and M/s..... are interested in submission of bid for the work of*[Insert name of work]*..... in accordance with the terms and conditions contained in the bidding documents.

Whereas, it is necessary for the members of the Joint Venture to designate one of them as the Lead Partner, with all necessary power and authority to do, for and on behalf of the Joint Venture, all acts, deeds and things as may be necessary in connection with the Joint Venture's bid for the project, as may be necessary in connection the Joint Venture's bid for the project.

NOW THIS POWER OF ATTORNEY WITNESSETH THAT:

We, M/s., hereby designate M/s., being one of the partners of the Joint Venture, as the lead partner of the Joint Venture, to do on behalf of the Joint Venture, all or any of the acts, deeds or things necessary or incidental to the Joint Venture's bid for the contract, including submission of bid, participating in conferences, responding to queries, submission of information/ documents and generally to represent the Joint Venture in all its dealings with the Railway or any other Government Agency or any person, in connection with the Bid/contract for the said work until culmination of the process of bidding till the contract agreement if successful, is entered into with the Dedicated Freight Corridor Corporation of India Limited and thereafter till the expiry of the contract agreement.

*To be executed by all the members of the JV except the lead member.
The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*

We hereby agree to ratify all acts, deeds and things lawfully done by lead member, our said attorney, pursuant to this power of attorney and that all acts deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us/ Joint Venture.

Dated this the Day of 2012

.....
(Signature)

.....
(Name in Block letters of Executants)

Seal of Company

Witness 1:

Witness 2:

Name:

Name:

Address:

Address:

Occupation:

Occupation:

7 CONFIDENTIALITY

Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the NGOs who submitted the proposals or to other persons not officially.

8. ARBITRATION :

Any dispute, controversy or claim arising out of or relating to this agreement shall be settled in the first instance amicably between the parties. If an amicable settlement cannot be reached as above, it will be settled by arbitration in accordance with the Indian Arbitration and Conciliation Act 1996 or any amendments thereof. The venue of the arbitration shall be Delhi.

SECTION 3

BID DATA SHEET

DATA SHEET

Salient Features of NIT Document

S.No.	Item	Details
1.	Name of Work	Engagement of NGO for Implementation of Resettlement Action Plan for Slice – 203, Fatehpur (Kms 938) to New Bhaupur (Kms 1046) total 114 KMS of Mughalsarai – Bhaupur Section of Eastern Dedicated Freight Corridor
2	Last date for receiving proposal (Proposal due date)	up to 15:00 Hrs. on 06.12.2012
3	Proposal Opening Date	1600 Hrs. on 06.12.2012
4	Contact Details of Designated Official / Address for submitting the proposal	General Manager/ LA & SEMU/EC Dedicated Freight Corridor Corporation of India Ltd. 5th Floor, Pragati Maidan Metro station Building Complex, New Delhi – 110001, INDIA Tele: 011-23454690 Fax: 011–23454701 E-mail: skjain@dfcc.co.in
5	Duration of validity of proposal	90 days
6	Duration of Consultancy Services	1 (one) year from date of award of consultancy contract.
7	Bid Security	Rs. 63,523/- (Rupees Sixty Three Thousand Five Hundred Twenty Three only)
8	Performance Bank Guarantee (PBG)	5% of the Contract Value
9	Submission of Proposals	(i) Proposals should be submitted in English language. (ii) All the personnel of the NGO shall have working knowledge of English and all the reports etc shall be written prepared in English. (iii) Limitations to Joint Ventures or sub-consultant: Joint venture consisting of maximum of two firms is permitted. However, lead partner of the JV must be the recipient of NIT. In case of JV the experience of both the firms shall be counted. In case of association/sub NGO, the

		<p>experience of associated NGO /sub-consultant shall not be counted, whereas the key personnel of the associated firm would be considered for evaluation if CVs & other details are furnished as per section-5.</p> <p>(iv) DFCCIL shall reimburse only service tax that is payable under applicable law subject to submission of proof of payment. It is the responsibility of NGO to ascertain whether service tax is payable and its extent. NGO has to assess all other Taxes and should inbuilt them in their financial proposal. These taxes (other than service tax) should not be shown separately.</p> <p>(v) The NGO shall state Price in India Rupees (INR) only.</p> <p>(vi) Procedure for submission of bid</p> <p>This is an Open Tender. Each page of Bid must be signed and sealed by the bidder or its authorized representative in whose name power of attorney is issued. Bids should be submitted in one envelope super scribed as follows:</p> <p>Tender No.:-</p> <p>Name of work:-</p> <p>Date & Time of opening of Tender:-</p> <p>Name & Address of NGO/Firm:-</p> <p>The proposal submission address is:</p> <p>General Manager/ LA & SEMU/EC Dedicated Freight Corridor Corporation of India Ltd. 5th Floor, Pragati Maidan Metro station Building Complex, New Delhi – 110001, INDIA</p> <p>(vii) Proposals must be submitted not later than the date and time mentioned in IFB.</p>
9	Payment Schedule	To be seen at clause 8.4 (b) GCC – Section 6 as amended by SCC – Section 6.
10	Currency for payments	Indian Rs. (INR) only.
11	Liquidated Damages	0.5% per week of contract value subject to maximum 10%
12	Penalty for deficiency	Up to 5% of contract value (as per GCC/SSC)

SECTION 4

TERMS OF REFERENCE

Dedicated Freight Corridor Corporation of India Ltd (DFCCIL)

Term of Reference (TOR)

Engaging NGOs in Implementing Resettlement Action Plan

1. **Objective:** Dedicated Freight Corridor Corporation of India Ltd. (DFCCIL) is a Special Purpose Vehicle (SPV) of the Ministry of Railways, Government of India entrusted with the responsibility to plan and implement Dedicated Freight Corridor Projects across the country, including the Western DFC connecting Delhi with Mumbai and Eastern DFC connecting Ludhiana with Kolkata. DFC will implement the Eastern DFC project with the assistance of the World Bank in three Phases e.g. Adoptable Program Lending (APL) - 1 (Khurja-Bhaupur Section), APL-2 (Mughalsarai – Bhaupur Section) and APL-3 (Ludhiana-Khurja Section). The second phase (APL-2) being the Mughalsarai – Bhaupur section is about 393 Kms. The detailed social impact studies have been completed and Resettlement Action Plans has been prepared for the APL-2. The EDFC (APL-2) will mostly run parallel to the existing rail tracks with 143 kms in detour section and balance 250 kms in parallel to the existing North Central Railway Track. DFCCIL has prepared a Resettlement Policy Framework (RPF) and RAP based on the SIA and as per National Resettlement and Rehabilitation Policy (NRRP 2007) and the World Bank Operational Policies (social safeguards) to identify and mitigate unavoidable involuntary resettlement impacts on people, their shelter, and incomes caused due to acquisition of about 1400 ha of land. The land acquisition is carried out under the provisions of Railways Amendment Act (RAA) 2008. The APL-2 affects about 12,369 families (60,640 people), these include about 568 families whose structures are being affected. The RPF/RAP provides impacts, entitlement matrix, implementation arrangements including grievance mechanism, monitoring and evaluation, and budget. **The RPF/RAP is disclosed on the DFCCIL website (<http://www.dfccil.org>) for reference.**

DFCCIL has hired Land Acquisition Facilitating NGOs (LAFN) to assist in survey work in the land acquisition processes, whose job is focused on physical progress. Key responsibilities of LAFN include (i) Notification to affected landowners; (ii) collection of sale deed (registry rate) for each affected village; (iii) joint measurement survey and valuation of affected lands and properties; (iv) assisting in compensation distribution; (v) assisting in acquisition of government land and other follow ups with revenue officials.

The RPF/RAP have provisions to provide the affected families with compensation as well as necessary rehabilitation support by engaging NGOs for facilitating community consultation, participation and income restoration, and enhance social accountability in the implementation process. This ToR provides the nature and scope of tasks and deliverables to be undertaken by the prospective NGOs to be engaged for this purpose with reporting arrangements and timeframe. Request for proposal from well established NGOs (registered under the Indian Societies Act, 1860/India Trusts Act/Section 25 of the Indian Companies Act) with substantial experience (minimum 15 years) in community development, local governance, livelihoods, right to information, and involuntary resettlement to assist in the R&R process.

2. Reporting Arrangements: The NGOs will work at the Chief Project Manager for the EDFC and under the supervision of Social and Environment Management Unit (SEMU) established at Corporate office at New Delhi. While SEMU will provide overall policy and training support to NGOs while the actual execution will be done at the CPM office in close coordination with the Administrator (Competent Authority) of R&R under the project.

3. Roles and Responsibilities of the NGO will be as follows.

- (i) Strengthening public consultation and raising people's awareness regarding the project; procedures for getting their rights and entitlements under the RAP,
- (ii) Strengthening participation of PAPs in livelihood and income restoration through capacity building support for family and group based income activities;
- (iii) Strengthening transparency in the LA and RR through social accountability measures such as community display boards, information dissemination, and regular consultation.
- (iv) Assisting in identification and verification of the PAPs for provisioning their entitlements;
- (v) Addressing gender issues in RAP implementation process including strengthening women's participation in livelihood activities.
- (vi) Providing special attention to enable the vulnerable families to equitably benefit from the RAP implementation process;
- (vii) Assisting in inter-agency coordination, especially with mainstream agencies for RAP implementation;
- (viii) Monitor and report regarding safeguard compliance on associated social and environmental issues;

4. Scope of Work: As mentioned above, the facilitating NGOs will play an important role in implementing the RAP and in mitigating the adverse effects of the project. The NGOs will remain responsible for the development and implementation of comprehensive implementation strategies such as to educate stakeholders to access opportunities available under the project and to facilitate the PAPs to take advantages of the options available in the projects. In this context, the scope of work designed for NGO is as follow

5. Specific Tasks: Coordination and Mainstream Linkage: The NGO will coordinate on behalf of the Project with the District Administration and development agencies for successful implementation of the RAP. It will coordinate with government/ other mainstream institutions to strengthen socio-economic development of the displaced families and vulnerable groups in order to enhance their access to welfare and income schemes. Address HIV/AIDS related issues at the construction camps in collaboration with State AIDS Prevention Control Societies (SACS).

6. Relocation Support: The NGO will assist the project displaced families in their smooth relocation from the affected site, to help the PAPs re-establish their shelter and businesses, and monitor and document the process. It will provide women headed and vulnerable displaced families with need-based relocation support in addition to the standard LA and R&R benefits. It will assist in re-establishing the community property resources with public participation.

7. Information, Education and Communication: The NGO will assist in IEC activities through public meetings and consultations with the project affected people (PAP) and vulnerable groups and their organizations (CBO). It will manage “Public Information Centers (PIC)” in its district level field offices, from where it will supply LA and R&R information to the Panchayat offices. The NGO will establish rapport with PAPs and inform them about their entitlements provided in the RAP. It will raise their awareness regarding LA and R&R, and procedures to receive their rights and benefits. The NGO will organize PAP beneficiaries groups (PBGs) and educate them about the program and dispel misinformation. The NGO will facilitate PAP interactions with the Competent Authority, and project functionaries including the CPM, APMs and elected local representatives. The NGO will organize regular meetings with PAPs at pre-disclosed time and location involving APM and PRI representatives at Tahsil level. Decisions taken in these meetings will be documented and submitted to CPM as part of Monthly Progress Reports. It will raise awareness on safety issues among workers at the camps as well as work sites and report regarding any hazard risks to the CPM and SEMU.

8. PAP Identification and Verification: The NGO will “cross verify through consultation with community groups and PRIs” the list of eligible PAPs for provisioning R&R benefits. This will help DFCCIL to finalize/update the list of PAPs in the Non-title Holder category (squatters/ kiosks/ Tenants). The NGO based on the final verification will assist the CPM office to prepare and issue ID cards to the PAPs eligible for R&R benefits. The NGO in consultation with the Competent Authority and the CPM office will display the list of verified PAPs at their field offices and send relevant lists to the Panchayat Offices. After publishing PAP list, the NGO will hold formal consultation with the PAPs and their local representatives, and village revenue officials. These consultations will focus on grievances of PAPs (including left out cases, proposed entitlement of each PAPs etc). The facilitating NGOs will record such grievances of the PAPs and put before the APM for amicable solutions. After receiving such grievances the NGO will inform the concern aggrieved PAPs about status of grievances. Proportion of such grievances resolved at the NGO level will be an indicator of good performance of NGO’s implementation. If the grievance is not resolved at the APM level, the NGO will provide need-based support to the concerned PAP to file the grievance application at the District Resettlement and Rehabilitation Committee (DRRC).

Disbursement of LA Compensation and R&R Benefits: The NGO will assist in and monitor the disbursement of LA compensation and R&R benefits; it will monitor the process and prepare status reports on LA and R&R indicating village wise:

- (i) PAFs who have received/are yet to receive compensation as per RAA 2008
- (ii) PAFs who have received/will receive R&R assistance as per entitlement matrix
- (iii) List of PAFs who have neither received compensation nor any R&R assistance.

The NGO will monitor that R&R benefits are disbursed in the joint names of husband and wife, based on SIA list prepared and will undertake video recording of the disbursement process.

Hand Holding Support for Livelihood/Income Restoration: The NGO will assist the PAPs in opening bank accounts; counsel them regarding utilisation of the R&R assistance. The NGOs will educate the PAPs about investment options and enable them to restore their economic status against the loss of land and other productive assets. For this purpose, the NGO will advise the Project team to disburse R&R package in a manner that will

economically benefit them most. In this connection NGO may involve local SHG groups or any other voluntary organization these group will impart training, help PAPs in skill up gradation and training for self employment. The NGO will also assess the local capacities, resources and assist the affected people to plan livelihoods and access income opportunities available.

In order to achieve the above, the NGO can adopt innovative strategies for enabling PAPs to find gainful employment which may include (but not limited to)

- Co-ordinate training and skill upgrading for PAPs for income restoration, including micro-credit and enterprise training for women self-help-groups, farmer groups, etc.
- Contact financial institutions like NABARD, SIDBI, and the Lead Bank of the area in accessing the credit required by the individual as well as groups of PAPs and the women's groups from the PAFs. The NGO will maintain a detailed record of such facilitation, and plan for each PAF to repay the loan.
- Establish linkages with the district administration for ensuring that the PAPs are benefited from the schemes (especially NAREGA and IAY) available and those they are entitled to. The focus for this component of the NGO's work will be the vulnerable PAPs for their income restoration. The NGO will maintain a detailed record of such facilitation.

9. Monitoring, Documentation, and Reporting: It will maintain meeting and consultation registers and will document the summary of discussions in all formal and informal consultations with PAPs. It will prepare and submit progress reports along with work programs and man power schedule on a monthly basis to the CPM and the SEMU to monitor the RAP implementation. It will monitor and report to the CPM office/SEMU regarding compliance with application labor laws, prohibition of child labor, gender equality, and local employment. The NGOs will assist the CPM to ensure that the contractors are abiding by the various provisions of the applicable laws, concerning the worker's safety, health and hygiene; women's issues and the child labor issues, such as the following:

- i. The Maternity Benefit Act, 1951;
- ii. The Contract Labor (Regulation and Abolition) Act 1948;
- iii. The Minimum Wages Act, 1948.
- iv. The Equal Remuneration Act, 1979.
- v. The industrial Employment (Standing Order) Act, 1946;
- vi. The Child Labour (Prohibition and Regulation) Act, 1986;
- vii. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996;
- viii. The Cess Act of 1996 and
- ix. The Factories Act, 1948.

10. Schedule of Payment:

The NGO shall submit the periodical report to CPM. The said report shall be reviewed by CPM and forwarded to SEMU/HQ for approval. Payment will be released by CPM only after approval of the report.

Sl. No.	Period	Payment Milestone	% of Contract Value
1	After 1 st month	Deployment of Manpower, opening of field office, submission of methodology of total activities	15%
2	After 3 rd month	Preparation of list of Project Beneficiaries Group, Issue of Identity Cards to PAPs, putting up display board-dissemination, regular consultation regarding LA & R & R, Monthly meeting with PAPs, HIV/AIDS awareness programme, interagency coordination, submission of periodical report on identified activities	15%
3	After 5 th month	continuing activities as given at sl. no.-2	15%
4	After 7 th month	continuing activities as given at sl. no.-2	15%
5	After 9 th month	continuing activities as given at sl. no.-2	15%
6	After 11 th month	Completion of assigned activities and submission of final report	15%
7		Balance payment will be retained till satisfactory completion of entire activities	10%

SECTION 5
TECHNICAL PROPOSAL – STANDARD FORMS

[Comments in brackets [] provide guidance to the short listed NGOs for the preparation of their Technical Proposals; they should not appear on the technical Proposals to be submitted.]

- TECH - 1 Technical Proposal Submission Form
- TECH – 2 Descriptions of the Approach, Methodology and Work Plan for Performing the Assignment
- TECH – 3 Team Composition and Task Assignments
- TECH – 4 Curriculum Vitae for Proposed Professional Staff

FORM TECH -1 TECHNICAL PROPOSAL SUBMISSION FORM

[Location, Date]

To [Name and address of client]

Dear Sirs:

We, the undersigned, offer to provide the NGO services for [insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal and a Financial Proposal.

We are submitting our Proposal in association with: [Insert a list with full name and address of each associated NGO]

We hereby declare that all the information and the statement made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

We undertake, if our Proposal is accepted, to initiate the NGO services related to the assignment not later than the date indicated in Paragraph Reference 6.2 & 6.2 of instructions to NGOs' (Section-1).

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:

Address:

Tel: (STD Code).....

Fax: (STD Code).....

Mobile:

e-mail:

**FORM TECH-2 DESCRIPTION OF APPROACH, METHODOLOGY AND WORK
PLAN FOR PERFORMING THE ASSIGNMENT**

[To be submitted by the bidders]

FORM TECH – 3. TEAM COMPOSITION AND TASK ASSIGNMENTS

[To be submitted by the bidders]

Professional Staff				
Name of Staff	NGO	Area of Expertise	Position Assigned	Task Assigned

FORM TECH -4 CURRICULAM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

[To be submitted by the bidders]

1. PROPOSED POSITION [Only one candidate shall be nominated for each position]

2. NAME OF NGO [Insert name of firm proposing the staff]

3. NAME OF STAFF [Insert full name]

4. DATE OF BIRTH

5. NATIONALITY :

6. EDUCATION [Indicate College/ university and other specialized education of staff member, giving names of institutions, degree obtained and dates of obtainment]

7. MEMBERSHIP IN PROFESSIONAL ASSOCIATIONS

8. Other Training:[Indicate significant training since degrees under 5 – Education were obtained]

9. Countries of Work Experience: [List countries where staff as worked in the last ten years]

10. Languages: [For each language indicate proficiency: good, fair, or poor in speaking, reading and writing]

11. 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, position held.]

From [Year] _____ To [Year] _____

Employer: _____

Position held: _____

12. Detailed Task Assigned: **[List all tasks to be performed under this assignment]**

13. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned

[Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11]

Name of assignment or Project: _____

Year: _____

Location: _____

Client: _____

Main project features: _____

Positions Held: _____

Activities performed: _____

14. 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 Professional/staff member or authorized representative of the staff]
Day/Month/Year

Full name of authorized representative of NGO.

SECTION 6

FORM OF CONTRACT AGREEMENT & GENERAL AND SPECIAL CONDITIONS OF CONTRACT

FORM OF CONTRACT AGREEMENT

(To be executed on stamp paper of value as per Stamp ACT)

This CONTRACT (hereinafter called the “contract”) is made -----day of the --
-----month of -----year, between Dedicated Freight
Corporation of India Limited,(hereinafter called the “Client” which expression shall
include their respective successors and permitted assigns, unless the context
otherwise requires) and on the other hand, a Joint Venture / Consortium consisting
of the following entities {name of JV/ Consortium entities} hereinafter called
individually as the “member” and collectively as the “consultant” which expression
shall include their respective successors and permitted assigns unless the context
requires otherwise) each of which will be jointly and severally be liable to the Client
for all the NGOs’ obligation under this Contract. The addresses of each of the
Parties are included in the Special Conditions of Contract to this Contract.

WHEREAS

- (A) The Client vide their Letter of Invitation invited proposals for Technical and Financial offers to undertake the work of NGO Services for the {----- *name of work*-----}; the NGOs submitted their proposals for aforesaid work, whereby the NGOs represented to the Client that they had the required professional skills and Professionals and technical and financial resources and in the said proposals the NGOs also have agreed to provide the Services to the Client on the terms and conditions set forth in this Contract; and
- (B) The Client in acceptance of aforesaid proposals of NGOs awarded the work of the Consultancy Services to the NGO.

NOW THEREFORE, the parties hereto hereby agree as follows:

1. The following documents attached hereto shall form an integral part of this Contract:
 - (a) General Conditions of Contract (hereinafter called “GCC”),
 - (b) Special Conditions of Contract (hereinafter called “SCC”),
 - (c) Terms of Reference
 - (d) Letter of Invitations
 - (e) Institutional Arrangements

(f) Project Information

(g) The following Appendices

{list of appendices for technical and financial proposals and forms of Bank Guarantees}

(h) Letter of Award for NGO Work and other correspondence mentioned therein.

In event of inconsistency in provisions of various documents, the *{as per Contract Conditions}* shall prevail.

1. The mutual rights and obligations of the Client and the NGOs shall be as set forth in Contract, in particular:

(a) The NGOs shall carry out the Services in accordance with the provisions of the Contract; and

(b) The Client shall make payments to the NGO in accordance with the provisions of the contract.

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

FOR AND ON BEHALF OF THE MEMBERS OF THE NGOS

FOR AND ON BEHALF OF DEDICATED FREIGHT CORRIDOR CORPORATION OF INDIA LIMITED

(by authorized representative)

(by authorized representatives)

Witness

Witness

1. -----

1. -----

2. -----

2. -----

GENERAL CONDITIONS OF CONTRACT

1. GENERAL PROVISIONS:

1.1 Definitions

In the contract (term defined as hereunder), the following words and expressions shall have the meanings assigned to the, unless the context requires otherwise. Words indicating persons or parties include corporations and other legal entities except where context requires otherwise.

- a. “**Applicable Law**” means all laws in force and effect as of the date hereof and which may be promulgated or brought into force and effect thereafter in India, including rules and regulations made therein, as may be in force and effect during subsistence of this agreement.
- b. “**Contract**” means the Contract Agreement, the Letter of Acceptance, the Letter of Tender, these conditions, the specifications, the drawings, the schedules and further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance.
- c. “**Contingencies**” means provisions for items of works which may have been overlooked or which may turn out to be necessary during progress of the services and price contingencies due to increase in international and domestic costs of person-months rates and reimbursable.
- d. “**Client**” means the Dedicated Freight Corporation of India Limited (DFCCIL) which expression shall also include its legal successors and permitted assigns.
- e. “**Effective Date**” means the date on which this Contract comes into force and effect pursuant to clause GCC 2.1
- f. “**Employer’s Representative**” means any officer nominated from time to time by **Dedicated Freight Corporation of India Limited (DFCCIL), its legal successors and assignees** to undertake various duties and functions in connection with this contract and Project.
- g. “**Consultant**” means the person or group named in the Contract who has to perform the Services and which expression shall include his/their legal successors and permitted assigns.
- h. “**Contractor**” means the person who is executing the Project for the Employer and the legal successors in title to such person.
- i. “**Foreign Currency**” means any currency other than the currency of Government of India.
- j. “**GCC**” mean the General Conditions of Contract.
- k. “**Government**” means the Government of India.
- l. “**Letter of Acceptance**” means the formal acceptance letter from the Employer of the Tender.
- m. “**Local currency**” means the currency of Government of India.

- n. **NGO** means Non Government Organisation
- o. **“Member”**, in case the NGO consists of a Joint Venture / Consortium of more than one entity, means any of these entities, and **“Members”** means all of these entities. **“Member in charge”** or **“Lead Member”** means the entity specified in Special Conditions of Contract (SCC) to act on their behalf in exercising all the NGOs rights and obligations towards the Employer under this Contract.
- p. **“Party”** means the Employer or the NGO as the case may be and **“Parties”** means all of these entities.
- q. **“Period of Consultancy Services”** shall mean the time between the Date of Commencement and end of Period of Completion as given in SCC.
- r. **“Personnel”** means the persons hired by the NGOs or by the Sub-NGOs as employees and assigned to the performance of the Services or any part thereof; **“Foreign Personnel”** means such personnel who at time of being hired had their domicile outside the Republic of India; **“Local Personnel”** means the personnel who at time of being hired had their domicile of the Republic of India.
- s. **“Project”** means the project named in SCC.
- t. **“SCC”** means the Special Conditions of Contract by which these General Conditions of Contract (GCC) may be amended or supplemented.
- u. **“Services”** means the work to be performed by the NGOs pursuant to this Contract as listed and described in **Appendix A** hereto.
- v. **“Sub-Consultant”** means any entity to which the NGOs subcontract any part of the Services in accordance with the provisions of Clause GCC 5.9
- w. i. **“Day”** means a calendar day.
 ii. **“Month”** means a calendar month
 iii **“Year”** means 365 days
- x. **“Terms and expressions not herein defined”** shall have the meanings assigned to them in the “Indian General Clauses Act, 1897”, or the “Indian Contract Act” or the Indian Sale of Goods Act or any other applicable Indian Law, as the case may be
- y. **Third Party**” means any person or entity other than the Government, the Client, The NGO or Sub-Consultant.

1.2 Interpretation

In the Contract except where the context requires otherwise :

- a. words indicating one gender include all genders,
- b. words indicating the singular also include the plural and words indicating the plural also include the singular, and
- c. “written” or “in writing” means hand-written, type written, printed or electronically made and resulting in a permanent record.

The marginal words and other headings shall not be taken into consideration in interpretation of these conditions.

1.3 Relation between the Parties

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

1.4 Governing Law and Priority of Documents

1.4.1 Law Governing Contract

This contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.4.2 Jurisdiction of Courts

This is a condition of contract that the courts at Delhi / New Delhi shall have exclusive jurisdiction to try all disputes between the parties arising out of this Contract.

1.4.3 Priorities of documents

The several documents forming the contract are to be taken as mutually explanatory of one another. If any inconsistency or discrepancy is found in the documents, the Client shall issue any necessary clarification or instruction. For the purpose of interpretation, the priority of documents shall be in accordance with the following sequence:

- a) The Contract agreement (if completed)
- b) The Letter of Award
- c) The Letter of Invitation(LOI)
- d) Terms of Reference (TOR)
- e) Special Conditions of Contract (SCC)
- f) General Conditions of Contract (GCC)
- g) The Schedules and any other document forming part of Contract.

1.4.4 Joint and Several Liabilities

If the NGO is (Under Applicable Law) a Joint Venture, Consortium or other Incorporated Group of two or more Members:

- a. These Members shall be deemed to be jointly and severally liable to the Client for the performance of the Contract.
- b. These Members shall notify the Client of their Lead Member who shall have authority to bind the NGO and each of these persons; and
- c. The NGO shall not alter its composition or legal status without the prior written consent of Client.

1.5 Communication and Language of Contract

1.5.1 Communication to be in writing

Communications between Parties will be effective only when in writing. Verbal communication, if any, must be confirmed in writing immediately later on. Any notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram or facsimile to such Party at the address specified in SCC. Notices shall be deemed to be effective as follows:

- a. In case of personal delivery or registered mail, on delivery
- b. In case of telexes, 24 hours following confirmed transmission
- c. In case of telegrams, 24 hours following confirmed transmission, and
- d. In case of facsimiles, 24 hours following confirmed transmission.

1.5.2 Language of Contract

The Contract has been executed in English which shall be controlling language for all matters relating to meaning or interpretation of this Contract.

1.6 Location

The services shall be performed at such locations as are specified in **Appendix A** hereto and, where the location of a particular task is not so specified, at such locations in Government's country or elsewhere, as Employer may approve.

1.7 Authority of Member in Charge (Lead Member)

In case NGOs consist of a Joint Venture / Consortium of more than one entity, the Members hereby authorize the entity specified in SCC to act on their behalf in exercising all the NGOs rights and obligations towards the Client under this Contract, including without limitation receiving of instructions and payments from the Employer.

1.8 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Employer or the NGOs may be taken or executed by the officials specified in the SCC.

1.9 Taxes and Duties

Unless otherwise specified in SCC, the NGOs, Sub-Consultants, Members and Personnel shall pay such taxes and duties, fees and other impositions as may be levied under the Applicable Law. All payments to both resident and non-resident NGOs, Sub-Consultants etc., will be subject to deduction of tax at source in accordance with the provisions of Indian Income Tax Act and any other Applicable Law.

2.0 Commencement, Completion and Modification of Contract

2.1 Effectiveness of Contract

The Contract shall come into force and effect on the date (the "Effective Date") of the Employers notice to the NGOs instructing the NGOs to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.

2.2 Termination of Contract for Failure to become Effective

If this Contract has not become effective within such time period after the date of contract signed by the Parties as shall be specified in the SCC, either Party may, by not less than four (4) weeks written notice to the other Party, declare this Contract null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

2.3 a. Commencement of Services

The NGOs shall begin carrying out the services at the end of such time period after Effective Date as shall be specified in SCC.

b. Completion of Services

The targeted date of completion and Period of Completion shall be as specified in SCC.

2.4 Expiration of Contract

Unless terminated earlier pursuant to clause GCC 4.0 hereof, this contract shall expire when services have been complete and all payments have been made at the end of such time period after Effective Date as shall be specified in the SCC.

2.5 Entire Agreement

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

2.6 Modifications

The terms and conditions of this Contract including the Scope of Services can be modified only by written agreement between the Parties.

2.7 Liquidated Damages / Penalties for Delays and Deficiencies of Service

Time is the essence of the Contract. It shall be the bounden duty of the NGOs to strictly adhere to time for performance of various services indicated in the Contract. Delays and deficiencies on part of NGOs shall attract penal provisions. In case of delays without valid reason, the NGOs shall be liable to pay liquidated damages at one-half of one percent (0.5%) per week of the Contract price subject to a maximum of ten percent (10%) of Contract price. For deficiencies in Service a fine up to a total of five (5%) of Contract value may be imposed. Besides the penalties, the NGOs may face termination of Contract and/or debarment for any future contracts.

2.8 Force Majeure

2.8.1 Definition

- a.** 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 hereunder impossible or so impracticable as reasonably to be considered impossible in the circumstances and includes war, riots, civil disorder, earthquakes, fire, explosions, storm, floods, revolution, large scale epidemics, nuclear accidents, other catastrophic unforeseeable circumstances, strikes, lockouts (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent) , orders of requisitions issued by Government department (herein referred to as “event”).
- b.** Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such party’s Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of conclusion of this Contract and (B) avoid or overcome in carrying out its obligations hereunder.
- c.** Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.8.2 Non breach of Contract

Neither party shall by reason of such event be entitled to terminate the Contract or have claim for damages against the other in respect of such non-performance or delay in performance.

2.8.3 Measures to be taken

- a.** A party affected by an event of Force Majeure shall notify the other party of such event as soon as possible and in no case later than twenty one (21) days of occurrence thereof.
- b.** The obligations under the contract shall be resumed as soon as practicable after the event has come to an end or ceased to exist.
- c.** If the performance in whole or part of any obligation under the contract is prevented or delayed by reason of the event beyond a period mutually agreed to if any or Ninety days (90) days whichever is more, either party may at its option terminate the Contract.
- d.** In case of doubt or dispute whether a particular occurrence should be considered an “event” as defined under this clause ,or for the duration of existence of the “event’, the decision of Employer shall be final and binding.

2.8.4 Extension of time

Any period which a party shall , pursuant to this Contract, require to complete any action shall be extended for a period equal to the time during which such party was unable to perform such action as a result of Force Majeure.

2.8.5 Payments

The NGO shall not be entitled to any extra payments towards reimbursements for additional costs incurred by them during the such period for purposes of the Services and in reactivating the Services after the end of such period of “event”.

3.0 Suspension

The client may, by written notice of suspension to the NGOs, suspend all or part of services and payments to NGOs hereunder if the NGOs fail to perform any of the obligations under the Contract, including carrying out of the Services, provided that such notice of suspension shall a) specify the nature of failure and b) request the NGOs to remedy such failure within a period not exceeding thirty (30) days.

4.0 Termination

4.1 A. By the Client

The Client may , by a written notice of termination not less than thirty (30) days to the NGOs after occurrence of any of the following events specified in paragraphs (a) through (f) of this clause GCC 4.1 , terminate the Contract.

- a) If the NGOs fail to remedy a failure in the performance of their obligations hereunder, as specified in Clause GCC 3.0 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as Client may have subsequently approved in writing.
- b) If the NGOs become (or, if NGOs consist of more than one entity, if any of their Members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for benefit of debtors or go into liquidation or receivership whether compulsory or voluntary or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction or otherwise is guilty of breach of Agreement;
- c) If the NGOs fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC hereof;
- d) If the NGOs submit to Client a statement , which has a material effect on the rights , obligations or interests of the Client and which NGOs know to be false;
- e) If as result of force majeure, the NGOs are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- f) If the NGO , in the judgment of 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 decides to terminate the contract.

For the purpose of this clause:

1. "Corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the process or in contract execution.
2. "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 Borrower, and includes collusive practice among NGOs (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition.

B. By the NGO

The NGOs may, by a not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any event specified in paragraphs (i) to (iv) of this GCC Clause 4.1(b) hereunder , terminate the contract

- (i) if Client fails to pay any money due to the NGOs pursuant to this Contract and not subject to dispute pursuant to Clause GCC 10 hereof within sixty (60) days after receiving written notice from NGOs that such a payment is overdue,
- (ii) if the Client is in material breach of its obligations pursuant to this Contract and not subject to dispute pursuant to Clause GCC 10 hereof and has not remedied the same within sixty (60) days (or such longer period as the NGOs may have subsequently approved in writing) following the receipt by Client of the NGOs' notice specifying such breach,
- (iii) if as a result of Force Majeure, the NGOs are unable to perform a material portion of Services for a period not less ninety (90) days;
or
- (iv) if the Client fails to comply with any final decision reached as a result of Arbitration pursuant to Clause GCC 10 hereof.

4.2 Cessation of Rights and obligations of the Parties

Upon termination of this contract pursuant to Clause GCC 4.0 hereof, or expiration of Contract pursuant to Clause GCC 2.4 hereof, all rights and obligations of the Parties hereunder shall cease except:

- a. Such rights and obligations as may have accrued on the date of termination or expiration;
- b. The obligation of confidentiality set forth herein under in clause GCC 5.3 hereof ;
- c. The NGO's obligation to permit inspection , copying and auditing of their accounts and records set forth in Clause GCC 5.8 hereof; and
- d. Any right which a Party may have under the Applicable Law

4.3 Cessation of Services

Upon termination of the Contract by the Client pursuant to Clause GCC 4.0 hereof, the NGOs shall immediately on 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 NGOs and equipment and materials furnished by the Client, the NGOs shall proceed as provided, respectively, by Clauses GCC 5.4 and GCC 5.11 hereof.

4.4 Payment upon Termination

Upon termination of this contract pursuant to Clause GCC 4.0 hereof, the Client shall make the following payments to the NGOs (after offsetting these payments any amount that may be due from the NGO to the Client);

- a. Remuneration pursuant to Clause GGC 8 hereof for Services satisfactorily performed prior to the effective date of termination;
- b. Reimbursable expenditures pursuant to Clause GCC 8 hereof for expenditures actually incurred prior to the effective date of termination; and
- c. Except in the case of termination pursuant to paragraphs (a) through (d) of Clause GCC 4.1(A) hereof, reimbursement of any reasonable cost incident to prompt and orderly termination of Contract including the cost of return travel of NGO's personnel and their eligible dependants.

5.0 Obligations of the NGOs

5.1 General

5.1.1 Scope of services

The NGOs shall perform the Services relating to Project. The Scope of the Services are stated in **Appendix A**

5.1.2 Standards of Performance

The NGOs shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency, skill and economy, in accordance with generally accepted professional techniques and practices and shall observe sound management practices, and employ appropriate advances in technology and safe and effective equipment, machinery, materials and methods. The NGOs 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 Clients legitimate interests in any dealings with Sub-Consultants and Third Parties.

5.1.3 Law Governing Services

The NGOs shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub-Consultants as well as the Personnel of the NGOs and the Sub-Consultants comply with the Applicable Law and respect local customs.

5.1.4 Co-ordination

Where the Services include co-ordination between the NGOs and other NGOs and contractors employed on the Project, the NGOs shall provide such co-ordination and shall obtain, co-ordinate and submit to the Employer's representative for his information and approval all details , drawings, quantities, specifications arising from such co-ordination with others. Such co-ordination will take place throughout the period of the Services.

5.2 Conflict of Interests

5.2.1 NGOs not to benefit from Commissions, discounts etc.

The remuneration of the NGOs pursuant to clause GCC 8 hereof shall constitute the NGO's sole remuneration in connection with this contract or the Services and, subject to Clause GCC 5.2.2 hereof, the NGOs shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations hereunder, and the NGOs shall use their best efforts to ensure that any sub-consultants , as well as the Personnel and agents of either of them , similarly shall not receive any such additional remuneration.

5.2.2 NGOs and Affiliates not to engage in Certain Activities

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

5.2.3 Prohibition of Conflicting Activities

The NGOs shall not engage, and shall cause their Personnel as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any of the following activities:

- a) during the term of this Contract, any business or professional activities in the Government's country 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 SCC.

The NGOs and their Personnel as well their Sub-Consultants and their Personnel shall have no interest in nor receive remuneration in connection with the Project except as provided for in the Contract.

5.3 Confidentiality

The NGOs, 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.

5.4 Documents to be property of Client and Intellectual Property Rights

All plans, drawings, specifications, designs, reports, other documents and software prepared by the NGOs and their Sub-Consultants for the Client for performance of the Services under this Contract shall become and remain the property of the Client, with the full copyright vested in the Client and the NGOs shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The NGOs 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 SCC.

5.5 Liability of NGOs

Subject to additional provisions, if any, set forth in the SCC, the NGOs' liability under this Contract shall be as provided by the Applicable Law.

5.6 Publications

Any publication of material relating to Services (other than proprietary and confidential information as covered under Clause GCC 5.2.4 hereof) shall be subject written approval of Client during the term of contract or within two (2) years of expiration or termination of this Contract.

5.7 Indemnity and Insurance

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

2.

(a) The NGO shall indemnify, protect and defend at NGO's own expense the Client, its agents and employees from and against any and all actions, claims, losses or damages arising out of NGO's failure to exercise the skill and care required under Clause GCC 5.1.2 hereof, provided, however;

(b) In addition to any liability NGO may have under the above NGO shall, at its own cost and expense, upon request of Client, re-perform the services in the event of NGO's failure to exercise the skill and care required under Clause GCC 5.1.2 hereof.

5.8 Accounting, Inspecting and Auditing

The NGOs (i) shall keep accurate and systematic accounts and records in respect of the Services, hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the bases thereof (including such bases as may be specifically referred to in the SCC; (ii) shall permit the Client or its designated representative periodically, and up to two (2) years

from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client; and (iii) shall permit the client to inspect the NGO's accounts and records relating to the performance of the NGO and to have them audited by auditors appointed by the client.

5.9 NGO's Actions requiring Prior Approval of Client

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

(a) Appointing such members of the Personnel as are listed in **Appendix C**

("NGOs' Sub-consultants' Key Personnel")

(b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-consultant and the terms and conditions of the subcontract shall have been approved in writing by the Client prior to the execution of the subcontract, and (ii) that the NGOs shall remain fully liable for the performance of the Services by the Sub-consultant and its Personnel pursuant to this Contract; and

(c) taking any action under an EPC/Design and Build Contract (or any other contract for the construction of the Project) designating the NGOs as "Engineer" for which action, pursuant to such Contract, the written approval of Client as "Employer" is required.

5.10 Reporting Obligations of NGOs

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

5.11 Client's equipment and materials

Equipment and materials made either available to the NGOs by the Client, or purchased by the NGOs with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the NGOs shall make available to the Client an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Client's instructions. While in possession of such equipment and materials, the NGOs, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value. All such material and equipment shall be maintained by the NGOs with proper care and diligence save normal wear and tear.

5.12 Performance Guarantee

5.12.1 The Performance Guarantee shall be as specified in SCC.

5.12.2 The Client reserves the right to forfeit the Performance Guarantee amount, in the event of termination of contract in accordance with Clauses GCC 4.1 A (a) to (e) and (f).

5.12.3 In the event of any defect coming to notice of Client during the period from actual date of completion of Services and the period of validity of the

Performance Guarantee as per this Contract, and in the eventuality of NGOs failing to rectify the same, the Client will forfeit the amount of Performance Guarantee.

6.0 NGO's Personnel and Sub-Consultants

6.1 General

The NGOs shall employ and provide such qualified and experienced Personnel and Sub-consultants as are required to carry out the Services.

6.2 Description of Personnel

- (a) The titles, agreed job descriptions, minimum qualification and estimated periods of engagement in the carrying out of the Services of each of the NGOs' Key Personnel are described in **Appendix-C**. If any of the Key Personnel has already been approved by the clients his/her name is listed as well.
- (b) If required to comply with the provisions of Clause GCC 5.1.2 hereof, adjustments with respect to the estimated periods "of engagement of Key Personnel" set forth in **Appendix-C** may be made by the NGOs by written notice to the Client, provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GCC 8.1 (b) of this Contract. Any other such adjustments shall only be made with the Client's written approval.
- (c) If additional work is required beyond the scope of the Services specified in **Appendix A**, the estimated periods of engagement of Key Personnel set forth in **Appendix C** may be increased by agreement in writing between the Client and the NGOs, provided that any such increase shall not, except as otherwise agreed, cause payments under this Contract to exceed the ceilings set forth in Clause GCC 8.1 (b) of this Contract.

6.3 Client's Approval of Personnel

The Key Personnel and Sub-consultants listed by title as well as by name in **Appendix-C** are hereby approved by the Client. In respect of other Key Personnel which the NGOs propose to use in the carrying out of the Services, the NGOs shall submit to the client for review and approval a copy of their biographical data and (in the case of Key personnel to be used within the country of the Government) a copy of a satisfactory medical certificate in the form attached hereto as **Appendix-D**. If the Client does not object in writing (stating the reasons for the objection) within thirty (30) calendar days from the date of receipt of such biographical data and (if applicable) such certificate, such Key Personnel shall be deemed to have been approved by the Client.

6.4 Working Hours, Overtime, Leave, etc.

- (a) Working hours and holidays for Key Personnel are set forth in **Appendix-E** hereto. To account for travel time, foreign Personnel carrying out Services inside the Government's country shall be deemed to have commenced (or finished) work in respect of the Services such number of

days before their arrival in (or after their departure from) the Government's country as is specified in **Appendix-E** hereto.

- (b) The Key Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in **Appendix-E** hereto, and except as specified in such Appendix, the NGOs' remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set for in **Appendix-C**. Any taking of leave by Personnel shall be subject to the prior approval by the Client and the NGOs shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

6.5 Change of Personnel

- a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the NGOs (e.g. death, physical disability or other exceptional circumstances), it becomes necessary to replace any of the Personnel, the NGOs shall forthwith provide as a replacement a person of equivalent or better qualifications.
- (b) If the Client (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the NGOs shall, at the Client's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Client.
- (c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, the rate of remuneration applicable to such person as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the NGOs may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Client. Except as the Client may otherwise agree, (i) the NGOs shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid to any of the Key Personnel/Professionals provided as a replacement shall not exceed 85% of the remuneration which would have been payable to the Key Personnel/Professionals replaced except in case of death.(iii) for total replacement up to 25% of Sub-Professional staff, remuneration shall be reduced by 5% (iv) for total replacement up to between 25% to 50%, of Sub-Professional staff remuneration shall be reduced by 15% and (v) for total replacement beyond 50% of the total of key personnel/Professionals and Sub-Professional staff, the client may initiate action for termination and/or debarment of such NGOs for future projects of the Client.

6.6 Resident Project Manager

If required by the SCC, the NGOs shall ensure that at all times during the NGOs' performance of the Services in the Government's country a Resident Project Manager, acceptable to the Client, shall take charge of the performance of such Services

7.0 Client's Obligations

7.1 Assistance and Exemptions

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

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

7.2 Access to Land

The Client shall facilitate NGO's, unimpeded access to all land in the Government's country in respect of which access is bonafide required for the performance of the Services. The NGO will, however, be responsible for any damage to such land or any property thereon resulting from such access caused by the default or negligence of the NGOs or any Sub-consultant or the Personnel of either of them and shall indemnify the Client against such liabilities.

7.3 Changes in the Applicable Law

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

agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GCC 8.1(b).

7.4 Services, Facilities and Property of the Client

The Client shall make available to the NGOs and the Personnel, for the purposes of the services and free of any charge, the services, facilities and property described in **Appendix F** at the times and in the manner specified in said **Appendix F**, provided that if such services, facilities and property shall not be made available to the NGOs as and when so specified, the Parties shall agree on

- (i) any time extension that it may be appropriate to grant to the NGOs for the performance of the Services,
- (ii) (the manner in which the NGOs shall procure any such services, facilities and property from other sources, and
- (iii) the additional payments, if any, to be made to the NGOs as a result thereof pursuant to Clause GCC 8.1(c) hereinafter.

7.5 Payment

In consideration of Services successfully and satisfactorily performed by the NGOs under this Contract, the Client shall make to the NGOs such payments and in manner as is provide by Clause GCC 8 of this Contract.

7.6 Counterpart Personnel

- (a) If so provided in **Appendix F** hereto, the Client shall make available to the NGOs, as and when provided in such **Appendix F**, and free of charge, such counterpart personnel to be selected by the Client, with the NGOs' advice, as shall be specified in such **Appendix F**. Counterpart personnel shall work under the exclusive direction of the NGOs. If any member of the counterpart personnel fails to perform adequately any work assigned to him by the NGOs which is consistent with the position occupied by such member, the NGOs may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.
- (b) If counterpart personnel are not provided by the Client to the NGOs as and when specified in **Appendix-F**, the Client and the NGOs shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Client to the NGOs as a result thereof pursuant to Clause GCC 8.1(c) hereof.

7.7 Decisions of Client

On all matters properly referred to it in writing by the NGO, the Client shall give a decision in writing within a reasonable time.

8.0 Payments to the NGOs

8.1 Cost Estimates and Ceiling Amount

- (a) An estimate of the cost of the Services payable in foreign currency is set forth in **Appendix-G**. An estimate of the cost of the Services payable in Local Currency is set forth in **Appendix-H**.

- (b) Except as may be otherwise agreed under Clause GCC 2.6 and subject to Clause GCC 8.1(c), payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in the SCC. The NGOs shall notify the Client as soon as cumulative charges incurred for the Services have reached 80% of either of these ceilings.
- (c) Notwithstanding Clause GCC 8.1(b) hereof, if pursuant to clauses GCC 7.3,7.4 or 7.6 hereof, the Parties shall agree that additional payments in local and/or foreign currency, as the case may be, shall be made to the NGOs in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GCC 8.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GCC 8.1 (b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

8.2 Remuneration and Reimbursable Expenditures

- (a) Subject to the ceilings specified in Clause GCC 8.1 (b) hereof, the Client shall pay to the NGOs (i) remuneration as set forth in Clause GCC 6.2(b), and (ii) reimbursable expenditures as set forth in Clause GCC 8.2(c). If specified in the SCC, said remuneration shall be subject to price adjustment as specified in the SCC.
- (b) Remuneration for the Personnel shall be determined on the basis of time actually spent by such Personnel in the performance of the Services after the date determined in accordance with Clause GCC 2.3 and Clause SCC 2.3 (or such other date as the Parties shall agree in writing) (including time for necessary travel via the most direct route) at the rates referred to in Appendices G and H and subject to such additional provisions as are set forth, in the SCC.
- (c) Reimbursable expenditures actually and reasonably incurred by the NGOs in the performance of the Services, as specified in Clause GCC 8.3(b)

8.3 Currency of Payment

- (a) Foreign currency payments shall be made in the currency or currencies Specified as foreign currency or currencies in the SC, and local currency Payments shall be made in the currency of the Government.
- (b) The SCC shall specify which items of remuneration and reimbursable expenditures shall be paid, respectively, in foreign and in local currency,

8.4 Advance Payments, Bank Guarantee, Mode of Billing and Payment

Billing and payments in respect of the Services shall be made as follows:

- (a) The Client shall cause to be paid to the NGOs an interest bearing advance payment as specified in the SCC, and as otherwise set forth below. The advance payment will be due after provision by the NGOs to the Client of a bank guarantee by a bank acceptable to the Client in an amount (or amounts) and in a currency (or currencies) specified in the SCC, such Bank Guarantee (i) to remain effective until the advance payment has been fully set off as provided in the SCC, and (ii) to be in the form set forth

in **Appendix-I** hereto or in such other form as the Client shall have approved in writing.

- (b) As soon as practicable and not later than fifteen (15 days) after the end of each calendar month during the period of the Services, the NGOs shall submit to the Client, in duplicate, itemized statements, accompanied by copies of receipted invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to Clauses GCC 8.3 and 8.4 for such month. Separate monthly statements shall be submitted in respect of Amounts payable in foreign currency and in local currency. Each such separate monthly statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion which pertains to reimbursable expenditures.
- (c) The Client shall cause the payment of the NGOs periodically as given in schedule of payment above within sixty (60) days after the receipt by the Client of bills with supporting documents. Only such portion of a monthly statement that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the NGOs, the Client may add or subtract the difference from any subsequent payments. In case the validity of contract is extended for reasons not attributable to NGO, the payments in such extended period shall be made based on the accepted man-month rates and actual deployment of Personnel.
- (d) The final payment (**excluding the Performance Guarantee**) under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the NGOs and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final statement shall be deemed approved by the Client as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Client unless the Client, within such ninety (90)-day period, gives written notice to the NGOs specifying in detail deficiencies in the Services, the final report or final statement. The NGOs shall thereupon promptly make any necessary corrections, and upon completion of such corrections, the foregoing process shall be repeated. Any amount which the Client has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract shall be reimbursed by the NGOs to the Client within thirty, (30) days after receipt by the NGOs of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with the above.
- (e) All payments under this Contract shall be made to the account of the NGOs specified in the SCC.

9.0 Fairness and Good Faith

9.1 Good Faith

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

9.2 Operation of the Contract

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GCC 10 hereof.

10.0 Settlement of Disputes

10.1 Amicable Settlement

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

10.2 Dispute Settlement

Any dispute between the Parties as to matters arising pursuant to this contract which 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 through Arbitration in accordance with the Rules stipulated in SCC.

10.2.1 Demand of Arbitration

The demand for arbitration shall specify the matters, which are in question, or subject of the dispute/s or differences/s as also amount of claim item wise. Only such dispute/s or difference/s in respect of which demand has been made by the party/parties shall be referred to Arbitration. And other matters shall not be included in reference.

10.2.2 Nomination of Arbitrators/Sole Arbitrator

Matters to be arbitrated upon shall be referred to a sole Arbitrator if the total value of the claim is up to Rs 5 million and to a panel of three Arbitrators if total value of claims is more than Rs 5 million. The Employer shall provide a panel of three arbitrators which may also include DFCCIL officers for claims up to Rs 5 million and a panel of five Arbitrators which may also include DFCCIL officers for claims of more than Rs 5 million. The Employer at the time of offering the panel of Arbitrator(s) to be appointed as Arbitrator shall also supply the information with regard to the qualifications of the said Arbitrator nominated in the panel along with their professional experience, phone nos. and addresses to the contractor. The Contractor shall have to

choose the sole Arbitrator from the panel of three and/or one Arbitrator from the panel of five in case three Arbitrators are to be appointed. The Employer shall also choose one Arbitrator from this panel of five and the two so chosen will choose the third arbitrator (the Presiding Arbitrator) from the panel only. The Arbitrator(s) shall be appointed within a period of 30 days from the date of receipt of written notice/demand of appointment of Arbitrator from either party. Neither party shall be limited in the proceedings before such arbitrator(s) to the evidence nor did arguments put before the Engineer for the purpose of obtaining his decision.

No decision given by the Client in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the arbitrator(s) on any matter, whatsoever, relevant to dispute or difference referred to arbitrator/s. The arbitration proceedings shall be held in **Delhi only**. The language of proceedings of documents and communication shall be English.

This is a condition of contract agreement /Arbitration that Arbitrators so nominated shall be professional Engineers/s. In case of 3 Arbitrators, one of the arbitrators shall be an accounts officer.

This is also a condition of contract that in case above procedure for nomination of arbitrator/s cannot be adopted due to whatsoever reason may be, then it will be deemed that no arbitration clause exist in contract agreement and normal law of land shall prevail to settle the disputes.

10.2.3 No Suspension of Work.

The reference to arbitration shall proceed notwithstanding that works shall not then be or be alleged to be complete, provided always that the obligations of the Client, and the NGOs shall not be altered by reasons of arbitration being conducted during the progress of Works. Neither party shall be entitled to suspend the work to which the dispute relates on account of arbitration and payments to the NGOs shall continue to be made in terms of the Contract.

10.2.4 Award to be Binding on All Parties.

The award of the sole arbitrator or a bench of three arbitrators shall be binding on all parties.

10.2.5 Rules Governing the Arbitration Proceedings.

The arbitration proceedings shall be governed by Indian Arbitration and Conciliation Act 1996, as amended from time to time including provisions in force at the time the reference is made.

10.2.6 Substitute Arbitrators:

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

10.2.7 Interest on Awarded Amount

Where the arbitral award is for payment of money, no interest shall be payable on the whole or any part of the money for any period till the date on which the award is made.

10.2.8 Fee to Arbitrators

The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include the fees of the Arbitrator(s) as per the rates fixed by the DFCCIL from time to time.

**Appendix-A:
Description of the Services**

[Give detailed descriptions of the Services to be provided; dates for completion of various tasks, place of performance for different tasks; specific tasks to be approved by Client, etc.]

As per TOR

Appendix-B:

Reporting Requirements

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

As per TOR

Appendix-C:

Key Personnel and Sub-consultants

As per Data Sheet (Section-)

Appendix-D:

Medical Certificate

NOT APPLICABLE

Appendix-E:

Hours of Work for Key Personnel

NOT APPLICABLE

Appendix-F:

Duties of the Client

[1 Services, facilities and property to be made available to the NGOs by the Client.

2 Guidance/assistance without any financial implication shall be provided by the field offices of client.]

Appendix-G

(NOT APPLICABLE)

Appendix-H:

Cost Estimates in Local Currency

(Not applicable)

SPECIAL CONDITIONS OF CONTRACT

GCC Clause No.	AMENDED/SUPPLEMENTED AS
1.5.1	<p>The addresses are:</p> <p>1. For Client:</p> <p style="text-align: center;">Dedicated Freight Corridor Corporation India Ltd. 5TH Floor, Pragati Maidan Metro station Building Complex New Delhi – 110001, INDIA</p> <p>Attn.: General Manager/LA & SEMU/EC, Tel: 011-23454690 Fax: 011-23454701</p> <p>2. For NGO :</p> <p>Attn.:</p> <p>Tel:</p> <p>Facsimile</p> <p>(fill in the blanks)</p>
1.7	<p>The Member in Charge is:</p> <p>{ }</p> <p>(To be filled by Bidder)</p>
2.2	<p>The Time period shall be 4 (four) weeks or such time period as the party may agree in time.</p>
2.3 (a)	<p>The time period shall be 15 (fifteen) days from the date of Issue of LOA.</p>
2.3 (b)	<p>The Time period shall be 1 (one) year. However, the client reserves the right to extend the contract under same price, terms and conditions for another 1 (one) year period under same rate, terms & conditions with the consent of the NGOs.</p>

2.6	The Client may notify the NGO to alter, amend, omit, add to, or otherwise vary the Services on same rates, terms and conditions and the NGOs shall be bound by such variations.
2.7.	<p>Sample deficiencies and delays in Services may include but not limited to:</p> <ol style="list-style-type: none"> 1. Not acting impartially or acting in collusion with Contractor(s) in recommending progress/completion of works. 2. Not keeping proper records regarding quality control, inspections, and rejection/rectifications of work. 3. Failure to give proper and timely advice to Client/Contractor to enable correction during execution. 4. Delays in checking and approval of reports. 5. Recommending extension to Design & Build Contract with a view to extending duration of Safeguards Monitoring Services. 6. Refusing to give reasons for recommendations when called for by the Client. 7. Not being fully conversant with Rules and Regulations, Manuals, Specifications, Standards, etc. 8. Certifying Sub-standard work. 9. Not exercising required scrutiny. 10. Permitting subletting of any part of work without authorization from Client.
5.4	The NGOs shall not use these document for purposes unrelated to this Contract without prior written approval of the Client.
5.5	<p>Limitation of the NGOs' liability towards the Client:</p> <p>(a) Except in case of gross negligence or willful misconduct on the part of the NGOs or on the part of any person or firm acting on behalf of the NGOs in carrying out the Service, the NGOs, with respect to damage caused by the NGOs to Client's property, shall not be liable to the Client:</p> <ol style="list-style-type: none"> (i) For any indirect or consequential loss or damage; and (ii) For any direct loss or damage that exceeds (A) the total under this contract including reimbursable etc. or (B) the proceeds the NGOs may be entitled to receive from any insurance maintained by the NGOs to cover such a liability , whichever is higher. <p>(b) This limitation of liability shall not affect the NGOs' liability, if any, for damage to Third Parties caused by the NGOs or any person or firm acting on behalf of the NGOs in carrying out the Services.</p>
5.7	<p>The risks and coverage shall be as follows:</p> <p>(a) Third Party motor vehicle liability insurance as required under Motor Vehicles Act, 1998 in respect of motor vehicles operated in India by the NGOs or any sub-consultants or their Personnel.</p>

	<p>(b) Third Party liability insurance with a minimum coverage equal to 50% of the contract value for the period of Consultancy.</p> <p>(c) Employer's liability and workers' compensation insurance in respect of the Personnel of the NGOs and of Sub-Consultants in accordance with relevant provisions of Applicable Law , as well as, with respect to such Personnel , any such life , health, personal accident, travel , household or other insurance as may be appropriate; and</p> <p>(d) Professional Liability insurance with a minimum coverage equal to total contract value for this Contract; and</p> <p>(e) Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this contract, (ii) any documents prepared by the NGOs in performance of the Services.</p>
5.12.1	<p>1. Within 15 days receipt of the letter of acceptance, the successful NGO shall furnish Bank Guarantee from SBI or any other nationalized / scheduled commercial bank of India for an amount equal to 5% of the contract value. The format of PBG has been given at Annexure-I of this section.</p> <p>2. The Performance Bank Guarantee shall be valid for an entire consultancy period plus two months.</p> <p>3. The Performance Bank Guarantee shall be released after satisfactory completion of the assignment.</p>
8.1(a)	The cost of Services under this Contract shall be paid in Indian Rupees (INR) only.
8.1(b)	All payments under this Contract shall be made in Indian Rupees (INR) only. The payment shall be made as per clause-10 of TOR in Section-4.
8.1(c)	Payment shall be made as per schedule given in section -4
8.2	Deleted
8.4 (a)	Deleted
8.4 (b)	Payment shall be made as per schedule given in section -4.
8.4(c)	No interest shall be paid for any difference of payment added in subsequent payment.
8.4(e)	<p>Payment to the account of NGOs shall be made to:</p> <p>Account Number: {to be specified by NGOs}</p> <p>Account Name: { to be specified by NGOs}</p> <p>Bank Details: {Name, Address, Telephone/Facsimile, Sort code/Swift code/IFSC and MICR code etc. to be specified by NGOs}</p>

FORM OF PERFORMANCE SECURITY

(PERFORMAMANCE BANK GUARANTEE)

(GCC Clause 5.12) {On *non-judicial stamp paper of appropriate value in accordance with Stamp Act. The stamp paper to be in name of Executing Bank*}

To

General Manager/ LA & SEMU/EC

Dedicated Freight Corridor Corporation of India Ltd.,
DFCCIL, 5th Floor, Pragati Maidan Metro station Building Complex,
New Delhi – 110001, INDIA

WHEREAS _____ [*Name and address of NGOs*]¹ (hereinafter called “the NGOs”) have undertaken, in pursuance of Contract No..._____ dated _____ to provide the services on terms and conditions set forth in this Contract _____ [*Name of Contract*] (hereinafter called the “the Contract”).

AND WHEREAS it has been stipulated by you in the said Contract that the NGOs shall furnish you with a “Performance Security” in the form of a Bank Guarantee by a recognized bank(2) for the sum specified therein as security for performance and compliance with his obligations in accordance with the Contract;

AND WHEREAS we, ----- (*Name of Bank*) with its Branch located at ----- (*address of branch*) and Head Office located at ----- (*address of Head Office*) {herein after called as “the Bank”} acting through -----(*name of authorized representative of Bank authorized to sign and incur obligations for and on behalf of the Bank*) have agreed at the request of the NGOs to give the NGOs such a Bank Guarantee;

NOW THEREOF we hereby affirm that we are the Guarantor and responsible to you, on behalf of the NGOs up to a total of _____ [*amount of Guarantee in letters*] (3) _____ [*in words*], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without any demur, cavil, reservation , argument or recourse any sum or sums within the limits of _____ [*amount of Guarantee*] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

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

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

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

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

Signature and Seal of the Guarantor _____ In presence of

Name and Designation _____ 1. _____

(Name, Signature & Occupation)

Name of the Bank _____

Address _____ 2. _____

(Name & Occupation)

Date _____

1. Give names of all partners if the NGO is a Joint Venture.
2. The bank guarantee shall be from a Scheduled / Nationalized Indian Bank.
3. Amount as Specified in GCC/TOR/ITB for Performance Security and in specified currency.

Note-The words in Italics are for guidance e and shall be deleted in final document.

SECTION 7

FINANCIAL PROPOSAL (PRICE BID) – STANDARD FORMS

[Comment n in brackets [] provide guidance to NGOs for the preparation of their Financial Proposals; they should not appear on the Financial Proposals to be submitted.]

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided in section 2.

FIN – 1 Financial Proposal Submission Form

FIN – 2 **Bidder shall quote lump sum price for the complete work for 1 (one) Year Period.**

FIN – 3 Breakdowns of Expenses

FORM FIN -1
FINANCIAL PROPOSAL SUBMISSION FORM

[Location, Date]

To [Name and address of client]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert date] and our Technical Proposal. Our attached Financial Proposal is for the sum of **[insert amounts in words and figures¹]** which is price for lump sum work for 1 (one) year period on the Schedule of Rates (SOR) (FIN-2).

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations up to expiration of the validity period of the Proposal i.e. before the date indicated in IFB.

We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in bribery or any fraudulent action to influence the decision for award of work. We further 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:

Address:

Tel: (STD Code).....

Fax: (STD Code).....

Mobile:

e-mail:

FORM FIN-2

SCHEDULE OF RATE

Sl. No.	Description of work	Quantity	Price inclusive of Taxes and Duties but exclusive of Service Tax (in Rs.)
1	ENGAGEMENT OF NGO FOR IMPLEMENTATION OF RESETTLEMENT ACTION PLAN FOR SLICE – 203, FATEHPUR (KMS 938) TO NEW BHAUPUR (KMS 1046) TOTAL 114 KMS OF MUGHALSARAI - BHAUPUR SECTION OF EASTERN DEDICATED FREIGHT CORRIDOR	LUMP SUM	In figure: Rs. _____ In Words: Rupees _____ _____ _____

NOTE -

- i) The above rates are inclusive of all taxes and levies except service tax which will be reimbursed on submission of proof of payment thereof.
- ii) Price shall be quoted both in figure and words. For any discrepancy noticed, amount written in word shall be considered firm and final. For any correction either in figure or words shall be re-written afresh, deleting incorrect figure or words by single line, duly authenticated/signed.

(Seal & Signature of Bidder)

FORM FIN-3
BREAKDOWN OF COSTS BY ACTIVITY

Price Component	Price in INR
Remuneration	
Other Expenses	
Total	

NOTE -

1. The above rates are inclusive of all taxes and levies except service tax which will be reimbursed on submission of proof of payment thereof.
2. Price shall be quoted both in figure and words. For any discrepancy noticed, amount written in word shall be considered firm and final. For any correction either in figure or words shall be re-written afresh, deleting incorrect figure or words by single line, duly authenticated/signed.
3. Total quoted above shall be the same as indicated in Form Fin- 2.

(Seal & Signature of Bidder)