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DRUK HOLDING & INVESTMENTS LTD.

GROUP STANDARD BIDDING DOCUMENT

SERVICES

Engagement of SAP Consultancy Firm

(Tender No.: DHI/PROC/TEN/2025/08)

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SECTION I - NOTICE INVITING TENDER

Druk Holding and Investments Limited
Thimphu, Bhutan

NIT No.: DHI/PROC/TEN/2025/08

Date: August 7, 2025

1. The Druk Holding and Investments Limited (DHI) (hereinafter referred to as “Client”/”Company”) invites e-Bid from eligible firms (hereafter referred to as the “Bidder”/“Consultant” with valid trade license to sign a *framework contract* for *SAP Consultancy Services on an “As and When Required Basis”*, as per the schedule below:

Activity	Time
Mode of Tendering	Single Stage - Two Envelope
Bid Submission (date & time)	August 28, 2025 at 1230 hours
Technical Bid Opening (date, time & place)	August 28, 2025 at 1430 hours Board Room, DHI HQ, Thimphu

2. Both the Technical Proposal and Financial Proposal shall be submitted via www.tender.bt. If the Bidder is bidding for the first time on the system, please note that vendor registration is required.
3. Proposals shall be opened in the presence of Bidder’s representatives who choose to attend.
4. In order to encourage broader participation from both international and domestic bidders, and to ensure the receipt of a sufficient number of quotations for assessing rate reasonability, the Bid Security is not required. Successful bidders are however required to furnish performance security during the signing of the contract.
5. Scope of tender and terms & conditions are given in the Bid Document.
6. DHI reserves the right to accept or reject any Proposal partly or fully or cancel the bidding process without assigning any reasons thereof and in such case no Consultant/ intending Consultant shall have any claim arising out of such action of the company.

SECTION II - INSTRUCTIONS TO CONSULTANTS

ITC 1. Definitions

- 1.1. The following words and expressions shall have the meaning hereby assigned to them except where the context otherwise requires.
- a. **Award of Contract:** The decision of the Companies to enter into a contract with a bidder for delivery of specified Services which has been conveyed to the bidder through a letter of Acceptance/Letter of Award/Notification of Award and/or Signing of a contract/Purchase Order/Supply Order.
 - b. **Company:** The DHI and/or its Companies applying this Document.
 - c. **Consultant:** The term Consultant includes but is not limited to international and national consulting firms, engineering firms, constructions firms, management firms, procurement agents, inspection agents, auditors, investment & merchant bankers, Government agencies, multinational organizations, credit rating agencies, universities, research institutions and individuals who help in a wide range of activities such as policy advice, institutional reforms, management, engineering services, construction supervision, financial services, procurement services, social and environmental studies, and identification, preparation and implementation of projects.
 - d. **Consultancy Services:** Covers a range of services that are of an advisory or professional nature and are provided by consultants. These Services typically involve providing expert or strategic advice e.g., management consultants, policy consultants or communications consultants. Advisory and project related Consulting Services include, for example: feasibility studies, project management, engineering services, finance and accounting services, training and development.
 - e. **Contract:** A legally binding agreement in writing entered into between the Company and the bidders on acceptable terms and conditions and which are in compliance with all the relevant provisions of the relevant laws.
 - f. **Data Sheet:** Such part of the Instructions to Consultants used to reflect specific assignment conditions.
 - g. **Day:** A calendar day.
 - h. **Government Agency:** An entity of the Royal Government of Bhutan (RGoB).
 - i. **Instructions to Consultants:** The document which provides the Consultants with all the information needed to prepare their Proposals.

- j. **Notice Inviting Tender:** A document published or notified by the Companies, which informs the potential consultants that it intends to procure Services. The term “Notice Inviting Proposal” and “Notice Inviting Quotation (NIQ)” are synonymous.
- k. **In Writing:** Communicated in written form (eg by mail, electronic mail, fax, telex) with proof of receipt.
- l. **Personnel:** Professional and support staff provided by the Consultant or by any Sub-Consultant and assigned to perform the Services or any part thereof; “Foreign Personnel” means such professional and support staff who at the time of being so provided have their domicile outside Bhutan; “Local Personnel” means such professional and support staff who at the time of being so provided have their domicile inside Bhutan.
- m. **Proposal:** The Technical Proposal and/or the Financial Proposal submitted by the consultants. The term “tender”, “bid” is synonymous with the term “Proposal”.
- n. **Procuring Agency:** The Procurement Department/Project & Regional Offices / Divisions / Section / Units under the Companies responsible for carrying out the procurement functions.
- o. **Request for Proposal (RfP):** A document sent to the consultants inviting them to submit a proposal for the assignment, and that has in it (a) Letter of Invitation, (b) Instruction to Consultants, (c) the Terms of Reference, and (d) the proposed contract.
- p. **Services:** The work to be performed by the Consultant pursuant to the Contract.
- q. **Sub-Consultant:** Any person or entity to whom/which the Consultant subcontracts any part of the Services.
- r. **Terms of Reference (TOR):** The document included in the RFP which defines the objectives, goals, scope of work, activities, tasks, responsibilities of the Company and the Consultant, required deliverables of the assignment, as well as background information (including a list of existing relevant studies and basic data) to facilitate the Consultants’ preparation of their proposals.

ITC 2. Introduction

- 2.1 The company will select a consulting firm/organization (the Consultant) in accordance with the method of selection specified in the Data Sheet.
- 2.2 The Consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the Data Sheet, for Consulting Services required for the assignment named in the Data Sheet. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.

- 2.3 Consultants should familiarize themselves with local conditions and take these into account in preparing their Proposals, if necessary. To obtain first-hand information on the assignment and local conditions, Consultants are encouraged to attend a pre-proposal meeting if one is specified in the Data Sheet.
- 2.4 The Company will provide in a timely fashion and at no cost to the Consultant the inputs and facilities specified in the Data Sheet, assist the Consultant in obtaining licenses and permits needed to carry out the Services, and make available relevant project data and reports.
- 2.5 Consultants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The Company is not bound to accept any proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultants.

ITC 3. Conflict of Interest

- 3.1 The Company requires that Consultants provide professional, objective and impartial advice, and at all times hold the Company's interest's paramount, strictly avoid conflicts with other assignments or their own corporate interests, and act without any consideration for future work. Without limitation on the generality of the foregoing Consultants, and any of their affiliates, shall be considered to have a conflict of interest, and shall not be recruited, under any of the circumstances set forth below:
- a. **Conflicting Activities:** A firm that has been engaged by the Company to provide goods, works or services other than Consulting Services for a project, and any of its affiliates, shall be disqualified from providing Consulting Services related to those goods, works or services. A firm hired to provide Consulting Services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or services resulting from or directly related to the firm's Consulting Services for such preparation or implementation. For the purposes of this clause, services other than Consulting Services are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.
 - b. **Conflicting Assignments:** A Consultant, including its Sub-Consultants, affiliates and the Personnel of any of the foregoing, shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant to be executed for the same or for another Company. For example, a Consultant hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and a Consultant assisting a Company in the privatization of public assets shall not purchase, nor advice purchasers of, such assets. Similarly, a Consultant hired to prepare Terms of Reference for an assignment, or

otherwise to provide any other services during the preparatory stages of the assignment or of the project, of which the assignment forms a part, shall not be hired for the assignment in question.

c. Conflicting Relationships

- I. A Consultant, including its Sub-Consultants, affiliates and the Personnel of any of the foregoing, that has a business relationship with a member of the Company's staff who is directly or indirectly involved in any part of (A) the preparation of the Terms of Reference of the assignment, (B) the selection process for such assignment, or (C) supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Company throughout the selection process and the execution of the Contract.
 - II. A Consultant, including its Sub-Consultants, affiliates and the Personnel of any of the foregoing that employs or otherwise engages a spouse, dependent or close relative of an employee of Company it also shall not be eligible to be awarded a Contract. For the purposes of this sub-clause, a close relative is defined as immediate family which includes father, mother, brother, sister, spouse and own children.
- 3.2 Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interests of the Company, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.
- 3.3 When the Consultant nominates any present or previous employee of the Company as Personnel in its Technical Proposal, such Personnel must have written certification from the Company confirming that:
- a. They are not current employees of the Company,
 - b. They are on leave without pay from their official position, and
 - c. They are allowed to work full-time outside of their previous official position.

The Consultant as part of its Technical Proposal shall provide such certification(s) to the Company.

- 3.4 When the Consultant nominates any former employee of the Company as Personnel in its Technical Proposal it must ensure, and so certify in its Technical Proposal, that no conflict of interest exists in the scope of the former employee's inclusion within the Consultant's Personnel being proposed to provide the Services.

ITC 4. Unfair Advantage

- 4.1 If a Consultant could derive a competitive advantage from having provided Consulting Services related to the assignment in question, the Company shall make available to all Consultants together with the RFP all information that would in that respect give such Consultant any competitive advantage over competing Consultants.

ITC 5. Fraud and Corruption

- 5.1 As per the RGOB policy, the Company requires that Consultants, their Sub-Consultants and the Personnel of them both observe the highest standards of ethics during the procurement and execution of contracts¹. In pursuance of this, the Company through its Group's Procurement of Service Manual:

- a) defines, for the purposes of this provision, the terms “Corrupt practice”, “Fraudulent practice”, “Collusive practice”, “Coercive practice and “Obstructive practice” as per GCC Clause 12: Fraud and Corruption;
- b) will reject a proposal for award if it determines that the Consultant 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 sanction a consultant or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a Company financed contract if at any time it determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, the contract in question;
- d) will have the right to require that a provision be included in Requests for Proposals and in contracts financed by the Company, requiring Consultants and their Sub-Consultants to permit the Company, any person appointed by the Company to inspect their accounts and records and other documents relating to their submission of proposals and contract performance, and to have them audited by auditors appointed by the Company;
- e) requires that Consultants, as a condition of admission to eligibility, execute and attach to their Proposals an Integrity Pact Statement in the form provided in Form TECH-10: Integrity Pact as specified in the Data Sheet. Failure to provide a duly executed Integrity Pact Statement may result in disqualification of the Proposal;
- f) will report any case of corrupt, fraudulent, collusive or coercive practice to the relevant RGoB agencies, including but not limited to the Anticorruption Commission (ACC) of Bhutan, for necessary action as per the statutes and provisions of the relevant agency.

¹ In this context, any action taken by a Consultant, Sub-Consultant or the Personnel of either of them to influence the procurement process or contract execution for undue advantage is improper.

- 5.2 Consultants, their sub-consultants, and their affiliates shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive, or coercive practices issued by the Company in accordance with the above [sub-clause \(c\)](#) of clause 5.1. Furthermore, consultants shall be aware of the provisions on fraud and corruption stated in the specific clauses in the general conditions of contract.
- 5.3 Consultants shall furnish information on commissions and gratuities, if any, paid or to be paid to agents relating to this proposal and during execution of the assignment if the Consultant is awarded the contract, as requested in the Form Fin-1: Financial Proposal Submission Form.

ITC 6. Eligible Countries

- 6.1 Consultancy Services provided under the Contract may originate from any country except if:
- a) as a matter of law or official regulation, RGoB prohibits commercial relations with that country;
or
 - b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Bhutan prohibits any imports of services from that country or any payments to persons or entities in that country.

ITC 7. One Proposal per Consultant

- 7.1 The consultant may only submit one proposal. If a Consultant submits or participates in more than one proposal, such proposals shall be disqualified. However, this does not limit the participation of the same Sub-Consultant, including individual experts, in more than one proposal.

ITC 8. Bid Validity

- 8.1 The Data Sheet indicates how long Consultants' Proposals must remain valid after the submission date. The Company will make its best efforts to complete negotiations within this period.
- 8.2 Should the need arise; however, the Company may request Consultants in writing to extend the validity period of their proposals. Consultants who agree to such extension shall confirm in writing of the extension of validity of the Proposal. However, Consultants could submit new staff as replacement of their proposed personnel who could be considered in the final evaluation for Contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals, without forfeiture of their Bid Security.

ITC 9. Restrictions of State-Owned Enterprises

9.1 State-owned enterprises or institutions may be eligible to compete and be awarded a contract only if they can establish that they:

- a) are legally and financially autonomous;
- b) operate under commercial law; and
- c) are not a dependent agency/under supervision of the company.

ITC 10. Joint Venture/Consortium Bids

10.1 Bids submitted by a Joint Venture, if so, permitted in the Data Sheet, formed by a number of legal entities as specified in the Data Sheet subject to the condition that the total number of legal entities shall not exceed four (4) entities, shall comply with the following requirements:

- a) One of the partners shall be designated as leader who shall have the authority to conduct all business for and behalf of any and all members of the joint venture. This authorization shall be evidenced by submitting with the bid a power of attorney signed by legally authorized signatories of the other members.
- b) The Bid shall be signed by an authorized signatory of the joint venture, who has been authorized by all the other members, so that the bid is legally binding on all members.
- c) The leader shall be authorized to receive instructions for and on behalf of any and all members of the Joint Venture and the entire execution of the contract, including payment, shall be done exclusively with the leader.
- d) All member of the JV shall be liable jointly and severally for the execution of the entire contract in accordance with its terms.
- e) A copy of the agreement entered into by the joint venture members as per the format provided in the bidding documents as **Appendix - I** shall be submitted with the Bid.

10.2 In order for JV/Consortium to qualify, it must meet the minimum Technical/Financial qualification requirements as specified in the Data Sheet.

10.3 A firm can be a member in only one joint venture; bids submitted by joint ventures including the same firm as member in more than one JV in the same bidding process will be rejected.

ITC 11. Eligibility of Sub-consultants

11.1 In case a shortlisted Consultant intends to associate with other Consultants or individual expert(s) who have not been shortlisted, if permitted by the Data Sheet, such

other sub-consultants and/or individual expert(s) shall be subject to the same eligibility criteria as are stipulated for the Consultant in the Data Sheet.

ITC 12. Exclusion of Consultant or Sub-Consultants

12.1 Consultant and any Sub-consultant shall not be permitted to submit a proposal or to be awarded a Contract under any of the following circumstances:

- a) it is insolvent or is in receivership or is a bankrupt or is in the process of being wound up, or has entered into an arrangement with creditors; or
- b) its affairs are being administered by a court, judicial officer or by an appointed liquidator; or
- c) it has suspended business, or is in any analogous situation arising from similar procedures under the laws and regulations of its country of establishment; or
- d) it has been found guilty of professional misconduct by a recognized tribunal or professional body or
- e) it has not fulfilled its obligations with regard to the payment of taxes, social security or other payments due in accordance with the laws of the country in which it is established or of the Kingdom of Bhutan; or
- f) it is or has been guilty of serious misrepresentation in supplying information in its tender or in the prior process leading to it being classified as a shortlisted Consultant; or
- g) it has been convicted for fraud and/or corruption by a competent authority; or
- h) it has not fulfilled any of its contractual obligations with the Company in the past; or
- i) he has been debarred from participation in public procurement by any competent authority as per law.

ITC 13. Contents, Clarification and Amendments of the RFP Documents

13.1 The RFP document comprises:

- a. Notice Inviting Tender
- b. Instructions to Consultants (including Data Sheet)
- c. Technical Proposal - Standard Forms
- d. Financial Proposal - Standard Forms
- e. Terms of Reference
- f. Standard Forms of Contract

13.2 Consultants may request a clarification of any part of the RFP document up to the number of days indicated in the Data Sheet before the proposal submission date. Any request for clarification must be sent in writing to the Company's address indicated in the Data Sheet. The Company will respond in writing and upload the same in the company's

website. Should the Company deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure mentioned under 13.3 below:

- 13.3 At any time before the submission of Proposals the Company may amend the RFP by issuing an addendum in writing. The addendum shall be uploaded in the relevant website. To give Consultants reasonable time in which to take an addendum into account in their Proposals the Company may, if the addendum is substantial, extend the deadline for the submission of Proposals.
- 13.4 A pre-proposal meeting may be conducted only if strictly necessary to clarify doubts and concerns of the Consultants prior to submission of proposals and shall be accordingly mentioned in the Data Sheet. Minutes of the pre-proposal meeting shall be circulated to all the Consultants and uploaded on the website.

ITC 14. Proposal Security

- 14.1 The Consultant shall furnish, as part of its Proposal, a Proposal Security in original form, denominated in the currency and in the amount specified in the Data Sheet.
- 14.2 The Proposal Security shall:
- a) at the Consultant's option, be in any of the following forms:
 - i. a Cash Warrant; or
 - ii. a Demand Draft; or
 - iii. Banker's Cheque/Cash order; or
 - iv. a Bank Guarantee as per Form TECH 12 of Section IV
 - b) be issued by a financial institution of Bhutan or any foreign bank acceptable and enforceable in any financial institution of Bhutan;
 - c) be promptly payable upon written demand by the company in case any of the conditions listed in ITC 14.5 are invoked;
 - d) remain valid for a period of thirty (30) days beyond the end of the validity period of the Proposal, as extended, if applicable, in accordance with ITC Clause 8: Proposal Validity. Accordingly, the Proposal Security shall remain valid till the date specified in the Data Sheet.
- 14.3 The Proposal Security is to be submitted in a separate sealed envelope. Any Proposal not accompanied by adequate Proposal Security and validity shall be rejected by the Company as non-responsive. No interest shall be paid by the Company on the Proposal Security.
- 14.4 The Proposal Security shall be returned to successful and unsuccessful Consultants as promptly as possible upon signing of the Contract Agreement.
- 14.5 The Proposal Security shall be forfeited:

- a) if a Consultant withdraws its Proposal as a whole or in part during the period of Proposal validity; or
 - b) if the selected Consultant fails to sign the Contract in accordance with ITC Clause 33: Award of Contract.
- 14.6 The Proposal Security of a JV must be in the name of the lead member.

ITC 15. Preparation of Proposals

- 15.1 The Proposal, as well as all related correspondence exchanged by the Consultant and the Company, shall be written in the language specified in the Data Sheet.
- 15.2 In preparing their Proposals, Consultants are expected to examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested may result in rejection of a Proposal.
- 15.3 While preparing the Technical Proposal, Consultants must pay particular attention to the following:
- a) If a shortlisted Consultant considers that it may enhance its expertise for the assignment by associating with other Consultants in a joint venture/consortium or sub-consultancy it may associate with either (a) non-shortlisted Consultant(s), or (b) shortlisted Consultants, in line with ITC Clause 11: Eligibility of Sub-Consultants. A shortlisted Consultant must first obtain the approval of the Company if it wishes to enter into a joint venture/consortium with non-shortlisted or shortlisted Consultant(s). In the case of a joint venture/consortium with non-shortlisted Consultant(s), the shortlisted Consultant shall act as joint venture/consortium leader. In the case of a joint venture/consortium, all partners shall be jointly and severally liable and shall indicate who will act as the leader of the joint venture/consortium.
 - b) The estimated number of Professional staff-months or the budget for executing the assignment can be shown in the Data Sheet, but not both. However, the Proposal shall be based on the number of Professional staff-months or the budget estimated by the Consultant.
 - c) For fixed-budget-based assignments, the available budget is given in the Data Sheet, and the Financial Proposal shall not exceed this budget, while the estimated number of Professional staff-months shall not be disclosed.
 - d) Alternative professional staff shall not be proposed, and only one curriculum vitae (CV) may be submitted for each position.

ITC 16. Technical Proposal Format and Content

- 16.1 Depending on the nature of the assignment, Consultants are required to submit a Full Technical Proposal (FTP), or a Simplified Technical Proposal (STP). The Data Sheet indicates the format of the Technical Proposal to be submitted. Submission of the wrong

type of Technical Proposal will result in the Proposal being deemed non-responsive. The Technical Proposal shall provide the information indicated in the following clauses from (a) to (k) using the attached Standard Forms (Section 4):

- a)
 - (i) For the FTP only, a brief description of the Consultant's organization and an outline of the recent experience of the Consultant on assignments of a similar nature is required in Form TECH-2: Consultant's Organization and Experience of Section 4. In the case of a Joint Venture/Consortium, this information should be provided for each partner. Information should be provided only for those assignments for which the Consultant was legally contracted by the Company as a corporation or as one of the major firms within a Joint Venture/Consortium. Consultants should submit evidence to substantiate the claimed experience
 - (ii) For the STP, the above information is not required and Form TECH-2: Consultant's Organization and Experience of Section 4 may not be used.
- b)
 - (i) For the FTP only, Consultants can comment and suggest on the Terms of Reference including workable suggestions that could improve the quality/effectiveness of the assignment; and on requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, data, etc. to be provided by the Company (Form TECH-3: Comments or suggestions on the TOR of Section IV).
 - (ii) For the STP, Form TECH-3: Comments or suggestions on the TOR of Section 4 may not be used; the above comments and suggestions, if any, should be incorporated into the description of the approach and methodology.
- c)
 - (i) For the FTP and STP, a description of the approach, methodology and work plan for performing the assignment and covering the following subjects: technical approach and methodology, work plan, and organization and staffing schedule. Guidance on the content of this section of the Technical Proposals is provided under Form TECH-4: Description of Approach of Section 4. The work plan should be consistent with the Work Schedule, which shall also be provided, and which will show in the form of a Gantt chart the timing proposed for each activity.
 - (ii) For the STP, the description of the approach, methodology and work plan should normally consist of 10 pages, including charts, diagrams, comments and suggestions, if any, on the Terms of Reference, counterpart staff and facilities.
- d) The list of the proposed Professional staff team by area of expertise, the position that would be assigned to each staff team member, and their tasks.
- e) CVs of the Professional staff signed by the staff themselves or by the authorized representative of the Professional Staff. CVs shall be supported by references from past clients.
- f) Estimates of the staff input (staff-months of foreign and local professionals) needed to carry out the assignment. The staff-months input should be indicated separately for home office and field activities, and for foreign and local Professional staff.

- g) Any drawings and/or specifications that form part of the Technical Proposal. Duly executed Integrity Pact Statement.
- h) Conflict of Interest, if any, with any of employees of the company should be reflected during the submission of the Technical Proposal. The Consultant shall provide detailed information regarding their business activity during the submission of the Technical Proposal.
- i) The Technical Proposal shall not include any financial information. A Technical Proposal containing financial information may be declared non-responsive.

ITC 17. Financial Proposals

17.1 The Financial Proposal shall be prepared using the attached Financial Standard Forms. It shall list all costs associated with the assignment, including (a) remuneration for staff (foreign and local, in the field and at the Consultant's home office), and (b) reimbursable expenses. If appropriate, these costs should be broken down by activity and, if also appropriate, into foreign and local expenditures. All activities and items described in the Technical Proposal must be priced separately; activities and items described in the Technical Proposal but not priced shall be assumed to be included in the prices of other activities or items.

17.2 In case of Foreign Consultants (as individual or as a firm), the consultant may express the price of their services in a maximum of three freely convertible foreign currencies, singly or in combination. The Company may require Consultants to state the portion of their price representing local costs in Ngultrum (BTN) if so, indicated in the Data Sheet.

ITC 18. Taxes

18.1 The Consultant and its Sub-consultants and Experts are responsible for meeting all tax liabilities arising out of the Contract. Information on taxes in the Client's country is provided in the Data Sheet.

ITC 19. Submission of Proposals

19.1. The technical and financial proposals are required to be submitted on the e-procurement website www.tender.bt.

19.2. No part of the Financial Proposals shall be submitted with the Technical Proposals. Doing so shall result in the rejection of the proposals.

ITC 20. Withdrawal and Substitution of Proposals

20.1 A Consultant may withdraw or substitute its Proposal after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITC Clause 19.2. Any

substitution of a Proposal must accompany the respective written substitution notice. All notices must be:

- a. submitted in accordance with ITC Clause 19 and
- b. received by the Company prior to the deadline prescribed for submission of Proposals, in accordance with ITC Clause 19.2

20.2 Proposals requested to be withdrawn in accordance with ITC Clause 20.1 above, shall be returned unopened to the Consultants.

20.3 No Proposal may be withdrawn or substituted in the interval between the deadline for submission of Proposals and the expiry of the period of Proposal validity specified by the Consultant in its Proposal or any extension thereof. Any such withdrawal shall result in the debarment by competent authority as per law.

ITC 21. Opening of Proposals

21.1 The Technical Proposals will be opened on the date specified in the Bid Data Sheet, while the opening date for the Financial Proposals will be communicated at a later stage.

ITC 22. Evaluation to be Confidential

22.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultant shall not contact the Company on any matter related to its Technical and/or Financial Proposal. Any effort by any Consultant to influence the Company in the examination, evaluation, ranking of Proposals, and recommendation for Award of Contract may result in the rejection of the Consultant's Proposal.

22.2 After the opening of Proposals, information concerning the Proposal documents or any part of the contents thereof shall not be released to any person or party that is not a member of the Proposal Evaluation Committee. The evaluation proceedings shall be kept confidential at all times until the award of Contract is announced.

22.3 Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

ITC 23. Evaluation of Technical Proposal

23.1 The Evaluation Committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria and points system specified in the Data Sheet. Each responsive Proposal will be given a technical score (St). A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP, particularly the Terms of Reference, or if it fails to achieve the minimum technical score indicated in the Data Sheet.

- 23.2 Following the ranking of Technical Proposals, when selection is based on quality only (QBS), the first ranked Consultant shall be invited to negotiate its proposal and the Contract in accordance with the instructions given under ITC Clauses 28: Negotiations of these Instructions.

ITC 24. Opening and Evaluation of Financial Proposals (Only for QCBS, FBS and LCS)

- 24.1 After the technical evaluation is completed, the Company shall inform the Consultants who have submitted proposals the technical scores obtained by their Technical Proposals and shall notify those Consultants whose Proposals did not meet the minimum qualifying mark, or were considered non-responsive to the RFP and TOR, that their Financial Proposals will be returned unopened after completing the selection process. The Company shall simultaneously notify in writing those Consultants that have secured the minimum qualifying mark, the date, time and location for opening the Financial Proposals. The opening date shall allow Consultants sufficient time to make arrangements for attending the opening, if they intend to. Consultants' attendance at the opening of Financial Proposals is optional.
- 24.2 Financial Proposals shall be opened publicly in the presence of the Consultants' representatives who choose to attend. These Financial Proposals shall be then opened, and the following information read out and recorded:
- a) name of the Consultant;
 - b) points awarded to the Technical Proposal; and
 - c) total price of the Financial Proposal.
- 24.3 The Company shall prepare a record of the opening of the Financial Proposals, which shall include the information disclosed to those present in accordance with ITC Clause 24.2 above.
- 24.4 The Consultants' representatives who are present shall be requested to sign the record. The omission of a representative's signature on the record shall not invalidate the contents and effect of the record.

ITC 25. Correction of Errors

- 25.1 The Evaluation Committee will correct any computational errors. When correcting computational errors, in case of any discrepancy between a partial amount and the total amount, or between words and figures, the formers shall prevail. In addition to the above corrections, as indicated under ITC Clause 17.1, activities and items described in the Technical Proposal but not priced shall be assumed to be included in the prices of other activities or items. In case an activity or line item is quantified in the Financial Proposal differently from the Technical Proposal:

- a. if the Time-Based form of Contract has been included in the RFP, the Evaluation Committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity and correct the total Proposal cost, and
- b. if the Lump-Sum form of Contract has been included in the RFP, no corrections are applied to the Financial Proposal in this respect. Prices shall be converted to a single currency using the selling rates of exchange, source and date indicated in the Data Sheet.

ITC 26. Combined Quality and Cost Evaluation

- 26.1 In the case of QCBS, the lowest evaluated Financial Proposal (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in the Data Sheet. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) indicated in the Data Sheet: $S = St \times T\% + Sf \times P\%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.
- 26.2 In the case of Fixed-Budget Selection, the Company will select the firm that submitted the highest ranked Technical Proposal within the budget. Proposals that exceed the indicated budget will be rejected. In the case of Least-Cost Selection, the Company will select the lowest proposal among those that passed the minimum technical score. In both cases the evaluated proposal price according to ITC Clause 23: Evaluation of Financial Proposal shall be considered, and the selected firm invited for negotiations.

ITC 27. Domestic Preference

- 27.1 The Consultants of Bhutan nationality herein after referred to as Domestic Consultant shall be given preferential treatment in award of contract as specified in the Data Sheet. The Domestic Consultant shall provide all evidence to the satisfaction of the Company to prove that the Consultant meets the criteria to be eligible for a margin of preference in comparison of its Proposal with those of the Consultants who do not qualify for the preference. The preference can be availed provided the Domestic Consultant shall ensure that specific percentage as specified in Data Sheet of the total man hours/ man days deployed should be of a person having Nationality of Bhutan.
- 27.2 For the purpose of price preference, the Joint Venture of Domestic Consultant with International Consultant shall be treated as Domestic Bidder provided fifty percent (50%) of the total man hours/man days deployed shall be nationals having Nationality of Bhutan.

ITC 28. Negotiations

28.1 Negotiations will be held at the date and address indicated in the Data Sheet. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm availability of all Professional staff. Failure to satisfy this requirement may result in the Company proceeding to negotiate with the next-ranked Consultant. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude a Contract.

ITC 29. Technical Negotiations

29.1 Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work schedule, organization and staffing, any suggestions made by the Consultant to improve the Terms of Reference, and the Special Conditions of Contract. The Company and the Consultant will finalize the Terms of Reference, staffing schedule, work schedule, logistics and reporting. These documents will then be incorporated into the Contract as “Description of Services”. Special attention will be paid to defining clearly the inputs and facilities required from the Company in order to ensure satisfactory implementation of the assignment. The Company shall prepare minutes of the negotiations, which shall be signed by the Company and the Consultant. The negotiations shall not substantially alter the original Terms of Reference or the terms of the Contract.

ITC 30. Financial Negotiations

30.1 Negotiations may be carried out with the lowest evaluated bidder/highest combined score, as the case maybe. The minutes of the negotiations, signed by the company and the Consultant, shall form part of the Contract Agreement.

ITC 31. Conclusion of the Negotiation

31.1 Negotiations will conclude with a review of the draft Contract. To complete negotiations the Company and the Consultant will initial the agreed Contract. If negotiations fail, the Company shall inform the Consultant in writing of the reasons for termination of the negotiations and then shall invite the Consultant whose Proposal received the second highest combined technical and financial score to negotiate a Contract. Once negotiations commence with the second ranked Consultant the Company shall not reopen the earlier negotiations.

ITC 32. Company’s Right to Accept any Proposal and to Reject Any or All Proposals

32.1 The Company reserves the right to accept or reject any Proposal, and to annul the Request for Proposals process and reject all Proposals at any time prior to Contract award, without thereby incurring any liability to consultants.

ITC 33. Award of Contract

- 33.1 After completing negotiations, the Company shall award the Contract to the selected Consultant, and:
- a) as soon as possible notify unsuccessful Consultants, and
 - b) publish a Notification of Award, in line with ITC clause 34: Notification of Award.
- 33.2 The Consultant is expected to commence the assignment on the date and at the location specified in the Data Sheet.

ITC 34. Notification of Award

- 34.1 Prior to expiry of Proposal validity, the company shall notify the successful Consultant, in writing or through their official website, that its Proposal has been accepted. Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.
- 34.2 Upon the successful Consultant furnishing the signed Contract Form and the Performance Security pursuant to ITC Clause 36: Performance Security, the company:
- a) Shall promptly notify each unsuccessful Bidder and discharge its Bid Security, pursuant to ITC Clause 14: Proposal Security; and
 - b) Publish a notification of award on the company's website. Unless specified differently in Data Sheet.
- 34.3 After publication of the award, unsuccessful Bidders may request in writing to the company for a debriefing seeking explanations of the grounds on which their Bids were not selected. The company shall promptly respond in writing to any unsuccessful Bidder who, after publication of contract award, requests a debriefing.

ITC 35. Signing of Contract

- 35.1 Within the time period specified in the Data Sheet, on receipt of the Notification of Award, the successful consultant shall sign the contract.
- 35.2 Where both the parties do not sign the Contract simultaneously,
- a) The Company shall send to the selected Consultant two original copies of (1) the full agreed Contract and (2) the notification of award, each signed by its duly authorized representative together with the date of signature;
 - b) The notification of award shall indicate the deadline by which it must be accepted;
 - c) The Consultant, if he agrees to conclude the Contract, shall sign and date all original copies of the Contract and the notification of award and return one copy of each to the Company before the expiry of the deadline;

- d) In case the selected Consultant fails to sign the Contract within the deadline specified, the Contract shall be awarded to the next lowest evaluated Consultant. Such a failure shall be considered as withdrawal and the provisions of ITC Clause 14: Proposal security shall apply.

ITC 36. Performance Security

- 36.1 Within the time period specified in the NoA, the Consultant shall submit the Performance Security in accordance with the GCC.36: Performance Security, using for that purpose any of the following security forms:
- a) Unconditional bank guarantee in the form provided or another form acceptable to the company, or
 - b) Banker's certified cheque/cash warrant, or
 - c) Demand draft.
- 36.2 If the Performance Security is provided by the successful Consultant in the form of a demand bank guarantee it shall be issued, at the Consultant's option, by a bank located in Bhutan or by a foreign bank acceptable to the company through a correspondent bank located in Bhutan.
- 36.3 Failure by the successful Consultant to submit the above-mentioned Performance Security or to sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Proposal Security. In that event the company may award the Contract to the next lowest evaluated Consultant whose offer is substantially responsive and is determined by the company to be qualified to perform the Contract satisfactorily. Such a failure shall be considered as "withdrawal", and all relevant clauses shall apply.

ITC 37. Debriefing by the Company

- 37.1 On the receipt of company's notification of award pursuant to ITC Clause 34: Notification of Award, an unsuccessful consultant has three (3) working days to make a written request to the company for debriefing. The company shall provide a debriefing to all unsuccessful consultants whose request is received within this deadline.
- 37.2 Where a request for debriefing is received within the deadline, the company shall provide the debriefing within five (5) working days.
- 37.3 The company shall discuss only such proposals and not the proposal of other consultants. The debriefing shall not include:
- a) point-by-point comparisons with another proposal; and
 - b) information that is confidential or commercially sensitive to other Consultants.

- 37.4 The Purpose of debriefing is to inform the aggrieved consultant of the reasons for lack of success, pointing out the specific shortcomings in its proposal without disclosing contents of other proposals.

ITC 38. Performance Evaluation of Consultant

- 38.1 A consultant performance evaluation is a standardized, systematic and objective assessment of a consultant's performance on a specific project contract.
- 38.2 The performance evaluation criteria shall be used by the concerned employee of the Company immediately with the commissioning of any services after the award of contract. The contractors shall be evaluated as the work progresses.

SECTION III - DATA SHEET

The following bid specific data shall amend and/or supplement the clauses in the Instructions to Consultants (ITC). Whenever there is a conflict, the provisions herein shall prevail over those in the ITC.

ITC CLAUSE	DETAILS
2.1	Method of Selection: QCBS
2.2	Financial Proposal to be submitted together with Technical Proposal: YES
	The Name of the Assignment is: SAP Consultancy Services
	The Scope of the assignment and expected time of its completion are: As the Terms of Reference.
2.3	A pre-proposal conference will be held : NO
5.1 (e)	The bidder shall submit a signed Integrity Pact: YES
8.1	Proposals must remain valid for: 90 days after the submission date
10.1	Whether Joint Venture/Consortium is permitted: YES
11.1	Association with other Consultants or individual expert(s) who have not been shortlisted is allowed: NO
13.2	<p>Clarifications on RFP Documents may be obtained from</p> <p><i>Damcho Dorji</i> damchodorji@dhi.bt +975 17320878</p> <p><i>Kinley Gyem</i> kinleygyem@dhi.bt +975 17787782</p> <p>Clarifications may be requested not later than (7) days before the deadline for submission of bid.</p>
13.4	Pre-proposal meeting: Not Applicable
14.2 & d)	The Proposal/Bid Security: Not Applicable
15.1	Proposals shall be submitted in: English
15.3(b) and (c)	The estimated number of professional staff-months required for the assignment is: As the Terms of Reference.
16.1	The format of the Technical Proposal to be submitted is: FTP

ITC CLAUSE	DETAILS
16.1 (c)	There is <i>no page limit</i> for the consultant on the description of the approach, methodology and work plan for performing the assignment.
17.0	The consultants shall state the portion of their price: In Ngultrum (BTN) .
18.1	Amounts deductible by DHI from the consultant under the contract shall be: As per Department of Revenue and Customs, Bhutan.
19.3	<p>The total number of original copies of the Technical Proposal, and the original copies of Financial:</p> <p>Only One Original copy of the technical proposal and original copy of Financial submitted on the e-procurement website: www.tender.bt</p>
19.4	The proposal shall be sealed and/or marked as technical and financial.
19.7	<p>The Proposal shall be submitted on www.tender.bt</p> <p>All the documents shall be in PDF format. A duplicate copy should be submitted in MS Word/Excel for evaluation purposes.</p> <p>The consultants are required to submit the proposal before the submission deadline given below.</p> <p>Date & Time up to which Proposals will be received: Date: August 28, 2025 Time (BTI): 1230 hours</p>
21.2	<p>Technical proposals will be opened on:</p> <p>Date: August 28, 2025 Time (BST): 1430 hours Place: Conference Hall, DHI HQ, Thimphu</p>
23.1	<p>The proposal will be evaluated based on the following evaluation criteria: As per the Terms of Reference (ToR). In ToR, the consultant needs to score at least 70% of the Technical Evaluation to proceed to Financial Evaluation.</p> <p>The total score will be evaluated on the weightage of technical and financial proposal as mentioned below:</p> <ol style="list-style-type: none"> 1. Technical - 75% 2. Financial - 25%

ITC CLAUSE	DETAILS
24.1	Minimum score required to qualify through the technical proposal is: 70% Technical and financial proposals will be opened to evaluate as specified above in ITC 23.1.
27.1	Domestic Consultant shall be given a preferential treatment in award of contract: Not Applicable
28.1	Expected date to start contract negotiations: To be informed later
32.1	DHI reserves the right to accept or reject any Proposal, and to annul the Request for Proposals process and reject all Proposals at any time prior to Contract award, without thereby incurring any liability to consultants.
33.2	Expected date for commencement of consulting services shall be: from the date of issue of Notification of Award/Contract signing.
35.1	Expected date for signing the contract after the award of Notification of Award: 10 days after the issuance of Notification of Award .
36.0	Performance Security: <ol style="list-style-type: none"> 1. A lump sum amount of BTN 500,000 shall be furnished in the form of BG/Cash/Bank Transfer which will be retained with the company/client until the release of the first payment, valid for 3 months. 2. 10% from each invoice will be deducted as retention money, which will be released after successful completion of the contract period.

SECTION IV - PROPOSAL FORMS

A. TECHNICAL PROPOSAL FORMS

FORM TECH – 1: Technical Proposal Submission Forms

<Location, Date>

To:

Procurement Unit

Druk Holding and Investment

Dear Sir,

We, the undersigned, offer to provide the Consulting Service for <Insert title of the 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 sealed in a separate envelope.

We are submitting our Proposal in association with: <Insert a list with full name and address of each associated Consultant><delete in case no association is foreseen>

We hereby declare that:

- a) This Bid and your written acceptance of it shall constitute a binding Contract between us.
- b) We understand that you are not bound to accept the lowest or any Bid you receive.
- c) We hereby confirm that this proposal complies with the proposal validity and Proposal Security required by the Bidding Documents and specified in the Bidding Data Sheet.
- d) We have no conflict of interest in accordance with ITC 3.
- e) Our firm, its affiliates or subsidiaries—including any subconsultants for any part of the Contract—has not been declared ineligible under the laws or official regulations of Bhutan, in accordance with ITB Sub-clause - and other relevant clauses.

** If none, please state none*

- f) Our duly executed Integrity Pact Statement is attached herewith.
- g) All the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification. In this regard you may contact any of our previous Employers or the previous Employers of any of our sub-consultants or any of the employees thereof for further information.

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in ITC 28 of the Data Sheet, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We undertake, if our Proposal is accepted, to initiate the Consulting Services related to the assignment not later than the date indicated in ITC 33.2 of the Data Sheet and to comply with all the provisions of the Contract.

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:

FORM TECH – 2: Firm Experience

A brief background and experiences about the Firm, and detailed information on the following with relevant supporting documents:

- Company Overview (Year established and headquarters, Ownership structure, Number of employees total and SAP-certified consultants, Global/regional presence, Key industries served).
- SAP- Specific Experience (Years of Experience in SAP implementation/ support, Specific SAP solution delivered, Experience with RISE with SAP and S/4HANA Private Cloud Edition, Number of SAP project completed, any SAP certification).
- Numbers of similar SAP S/4HANA projects executed and completed (Client name, Industry and Country, Project scope (modules, landscape, integrations), duration and timelines, roles and responsibilities, project outcomes).
- Client References (Contact details or testimonials from past clients, willingness to arrange reference calls).

FORM TECH – 4: Description of the Approach, Methodology and Work Plan

You are suggested to submit your Technical Proposal in line with the Terms of Reference (ToR) specified.

1. **Technical Approach and Methodology:** In this chapter you should explain your understanding of the objectives of the assignment, detailed architecture diagram wherever necessary of all components and integration, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.
2. **Work Order Governance Model:** Describe your understanding of the Work Order governance process in line with the ToR. How will you ensure alignment between work order deliverables and overall project objectives?, approach to prioritizing, scoping and estimating tasks under each work order, roles and responsibilities of your team and the client in the work order process, tools, templates, or systems to manage work orders and track progress, costs and timelines, manage changes or amendments to an active work order, handle conflicts or delay related to work orders.
3. **Knowledge Transfer (KT) and Quality Assurance (QA) Strategy:**
 - Describe your understanding of the objectives of knowledge transfer in the context of this engagement, proposed approach and methodology for KT, key deliverables of KT process, assessment of the effectiveness of KT, tools or platforms for delivering and managing KT.
 - Describe you overall QA approach for this engagement, QA practices across different stages, ensure solution quality, testing types in QA plan, manage defects and quality gates, tools for QA processes, involvement of client teams, metrics and reports to track QA performance and progress, QA Governance model.

FORM TECH – 5: Team Composition

Name of Consultant	Area of Expertise	SAP S/4HANA certification	No. of years of experience	No. of years of relevant module experience	List of skillsets	Employment status with Firm (Full time, or other)

Note: Attach certificates and documentary evidence

FORM TECH – 6: Curriculum Vitae (CV) for Proposed Consultant

Proposed Position [*only one candidate shall be nominated for each position*]: _____

2. Name of Firm [*Insert name of firm proposing the consultant*]: _____

3. Name of Consultant [*Insert full name*]: _____

4. Date of Birth: _____ Nationality: _____

5. Education [*Indicate college/ university and other specialized education of the consultant, giving names of institutions, degrees obtained, and dates of obtainment*]: _____

6. Membership of Professional Associations: _____

7. Certification & Training [*Indicate significant certification & training*]: _____

8. Countries of Work Experience: [*List countries where consultant has worked in the last ten years*]: _____

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

10. Employment Record [*Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below):*

dates of employment, name of employing organization, positions held.]: _____

From [Year]_____: To [Year]: _____

Employer: _____

Positions held: _____

<p>11. Detailed Tasks Assigned</p> <p><i>[List all tasks to be performed under this assignment]</i></p>	<p>12. Works Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</p> <p><i>[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.]</i></p> <p>Name of assignment or project: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Company: _____</p> <p>Main Project Features: _____</p> <p>Positions Held: _____</p> <p>Activities performed: _____</p>
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13. 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 herein may lead to my disqualification or dismissal, if engaged.

Date: _____

[Signature of staff member or authorized representative of the staff]

Day/Month/Year

Full name of authorized representative:

FORM TECH – 10: Integrity Pact Statement

1. General:

Whereas (*Name of head of the procuring agency or his/her authorized representative, with power of attorney*) representing the (*Name of procuring agency*), <*name of the company*>, hereinafter referred to as the **“Employer”** on one part, and (*Name of bidder or his/her authorized representative, with power of attorney*) representing M/s. (*Name of firm*), hereinafter referred to as the **“Bidder”** on the other part hereby execute this agreement as follows:

- 1.1. This agreement shall be a part of the standard bidding document, which shall be signed by both the parties at the time of purchase of bidding documents and submitted along with the tender document. This IP is applicable only to **“large”** scale works, goods and services, the threshold of which will be announced by the government from time to time. The signing of the IP shall not apply to framework contracting such as annual office supplies etc.

2. Objectives:

Whereas, the Employer and the Bidder agree to enter into this agreement, hereinafter referred to as IP, to avoid all forms of corruption or deceptive practice by following a system that is fair, transparent and free from any influence/unprejudiced dealings in the **bidding process**² and **contract administration**³, with a view to:

- 2.1. Enabling the Employer to obtain the desired contract at a reasonable and competitive price in conformity to the defined specifications of the works or goods or services; and
- 2.2. Enabling bidders to abstain from bribing or any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices.

3. Scope:

The validity of this IP shall cover the bidding process and contract administration period.

4. Commitments of the Employer:

The Employer Commits itself to the following: -

- 4.1. The Employer hereby undertakes that no officials of the Employer, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favor or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process and contract administration.
- 4.2. The Employer further confirms that its officials shall not favor any prospective bidder in any form that could afford an undue advantage to that particular bidder in the bidding process and contract administration and will treat all Bidders alike.
- 4.3. Officials of the Employer, who may have observed or noticed or have reasonable suspicion shall report to the head of the employing agency or an appropriate government office any violation or attempted violation of clauses 4.1 and 4.2.

² Bidding process, for the purpose of this IP, shall mean the procedures covering tendering process starting from bid preparation, bid submission, bid processing, and bid evaluation.

³ Contract administration, for the purpose of this IP, shall mean contract award, contract implementation, un-authorized sub-contracting and contract handing/taking over.

- 4.4. Following report on violation of clauses 4.1 and 4.2 by official (s), through any source, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings shall be initiated by the Employer and such a person shall be debarred from further dealings related to the bidding process and contract administration.

5. Commitments of Bidders

The Bidder commits himself/herself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of the bidding process and contract administration in order to secure the contract or in furtherance to secure it and in particular commits himself/herself to the following: -

- 5.1. The Bidder shall not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favor, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Employer, connected directly or indirectly with the bidding process and contract administration, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding process and contract administration.
- 5.2. The Bidder shall not collude with other parties interested in the contract to manipulate in whatsoever form or manner, the bidding process and contract administration.
- 5.3. If the bidder(s) have observed or noticed or have reasonable suspicion that the provisions of the IP have been violated by the procuring agency or other bidders, the bidder shall report such violations to the head of the procuring agency.

6. Sanctions for Violation:

The breach of any of the aforesaid provisions shall result in administrative charges or penal actions as per the relevant rules and laws.

- 6.1. The breach of the IP or commission of any offence (forgery, providing false information, mis-representation, providing false/fake documents, bid rigging, bid steering or coercion) by the Bidder, or any one employed by him, or acting on his/her behalf (whether with or without the knowledge of the Bidder), shall be dealt with as per the terms and conditions of the contract and other provisions of the relevant laws, including Debarment Rules.
- 6.2. The breach of the IP or commission of any offence by the officials of the procuring agency shall be dealt with as per the rules and laws of the land in vogue.

7. Monitoring and Administration:

- 7.1. The respective procuring agency shall be responsible for administration and monitoring of the IP as per the relevant laws.
- 7.2. The bidder shall have the right to appeal as per the arbitration mechanism contained in the relevant rules.

We, hereby declare that we have read and understood the clauses of this agreement and shall abide by it.

The parties hereby sign this Integrity Pact at *(place)* _____ on *(date)* _____

Affix
Legal
Stamp

Affix
Legal
Stamp

EMPLOYER

Name: _____

CID: _____

WITNESS

Name: _____

CID: _____

Signature: _____

BIDDER/REPRESENTATIVE

Name: _____

CID: _____

WITNESS

Name: _____

CID: _____

Signature: _____

FORM TECH – 12: Proposal Security (Bank Guarantee)

[The Bank shall fill in this Bank Guarantee Form in accordance with the instructions indicated.]

.....
[insert Bank's Name, and Address of Issuing Branch or Office]

Tender No.

Beneficiary: [Name and Address of Purchaser]

Date: _

BANK GUARANTEE No.:

At the request of the Bidder, we..... *[insert name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount *[insert amount in figures]* *[insert amount in words]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the Bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of Bid validity specified by the Bidder in the Form of Bid;
or
- (b) having been notified of the acceptance of its Bid by the Employer during the period of Bid validity, (i) fails or refuses to execute the Contract Form; or (ii) fails or refuses to furnish the Performance Security, if required, in accordance with the Instructions to Bidders.

This guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the contract signed by the Bidder and the Performance Security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful Bidder; or (ii) thirty days after the expiration of the Bidder's Bid.

Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

[signature(s)]

B. FINANCIAL PROPOSAL FORMS

FORM FIN – 1: Financial Proposal Submission Form

[Location, Date]

To: *[Name and address of Company]*

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. This amount is inclusive of local taxes, which shall be identified during negotiations and added to the above amount.

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 TTC clause 7.1 of the Data Sheet.

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

Yours sincerely,

Authorized Signature *[In full and initials]*:

Name and Title of Signatory:

Name of Firm:

Address:

FORM FIN – 3: Breakdown of Costs

SN	Consultant	Key Personnel Proposed	Man Day Rate (on site)	Man Day Rate (off site)
1	SAP Project Management Advisor			
2	SAP Technical (SAP Fiori/U15 Developer)			
3	SAP Technical (ABAP Developer)			
4	Integration Consultant (SAP PI/PO/CPI/API)			
5	SAP BTP			
6	Workflow (SAP Business Workflow/SAP BTP Workflow)			
7	SAP S/4HANA & Datesphere& Connectivity			
8	SAP S/4HANA modules (Finance or Financial Accounting)			
9	SAP S/4HANA modules (Controlling)			
10	SAP S/4HANA modules (Sales & Distribution).			
11	SAP S/4HANA modules (Production Planning)			
12	SAP S/4HANA modules (Project System)			
13	SAP S/4HANA modules (Enterprise Asset Management / Plant Maintenance)			
14	SAP S/4HANA modules (Human Capital Management)			
15	SAP S/4HANA modules (Industry Solution for utilities (ISU))			

SN	Consultant	Key Personnel Proposed	Man Day Rate (on site)	Man Day Rate (off site)
16	SAP S/4HANA module (Material Management)			
17	SAP Analytics Cloud (SAC)			
18	SAP Group Reporting/Consolidation			
19	SAP Data Specialist			
20	SAP Testing and Cutover			

SECTION V - GENERAL CONDITIONS OF CONTRACT

1. Definitions

1.1 The following words and expressions shall have the meaning hereby assigned to them except where the context otherwise requires.

- a) **“Affiliate”** means business concerns, organizations, or individuals that control each other or that are controlled by a common third party. Control may include shared management or ownership, common use of facilities, equipment and employees; or family interest.
- b) **“Applicable Laws of Bhutan”** means the laws and any other instruments having the force of law in Bhutan;
- c) **“Consultant”** means an individual or a legal entity entering into a Contract to provide the Services to the Company under the Contract;
- d) **“Consulting Services”** means expert services of a professional and/or intellectual nature, provided by the Consultant based on specialized expertise and skills, pursuant to the Contract executed between the Company and Consultant; Consultancy Services includes but not limited to policy advice, institutional reforms, management, engineering services, construction supervision, financial services, procurement services, social and environmental studies, hydrological studies, geotechnical and seismic studies, lineament mapping and identification, preparation of prefeasibility, feasibility and detailed project reports and implementation of projects;
- e) **“Contract Price”** means the aggregate price payable to the Contractor as specified in the Contract at the time of award, subject to such additions and adjustments thereto or deductions therefrom as may be made pursuant to the provisions of the Contract till the completion of the contract, the price so adjusted shall be termed as Executed Price;
- f) **“Contract”** means the formal agreement in writing, entered into between the Company and the consultant on acceptable terms and conditions and which are in compliance with all the relevant provisions of the laws of the Kingdom of Bhutan;
- g) **“Day”** means calendar day of the Gregorian calendar. However, “Working day” as used herein means all calendar days excluding Sundays and Government holidays in the Kingdom of Bhutan;
- h) **“Company”** means the company who is tendering the contract;
- i) **“Domestic Bidder”** shall mean any Bidder having nationality of Bhutan or a group of legal entities all members of the group having nationality of Bhutan. A legal entity shall be considered as having the nationality of Bhutan if it is registered within Bhutan constituted under and governed by the civil, commercial or public laws of Bhutan, and have its statutory office, central administration or principal place of business in Bhutan;

- j) **“Effective Date”** means the date on which this Contract comes into force and effect pursuant to 0;
- k) **“Foreign Currency”** shall mean any currency other than Bhutanese Ngultrum (BTN).
- l) **“GCC”** means General Conditions of Contract;
- m) **“Government”** means the Royal Government of Bhutan (RGoB).
- n) **“In Writing”** means communicated in written form (e.g. by mail, electronic mail, fax,) with proof of receipt;
- o) **“ITC”** means Instructions to Consultants;
- p) **“Month”** means calendar month of the Gregorian Calendar.
- q) **“Member”** means any of the entities that make up the joint venture/consortium/association; and **“Members”** means all these entities.
- r) **“Party”** means the Company or the Consultant, as the context requires, and **“Parties”** means both of them.
- s) **“Personnel”** means professional and support staff provided by the Consultant or by any Sub-Consultants and assigned to perform the Services or any part thereof; **“Foreign Personnel”** means such professional and support staff who at the time of being so provided have their domicile outside Bhutan; **“Local Personnel”** means such professional and support staff who at the time of being so provided have their domicile in Bhutan; and **“Key Personnel”** means the Personnel referred to in 38.2.
- t) **“RFP”** means Request for Proposal;
- u) **“SCC”** means the Special Conditions of Contract by which the GCC may be amended or supplemented;
- v) **“Sub-Consultant”** means a Consultant selected to provide a pre-specified service and nominated as sub-consultant to the main Consultant for such purpose;
- w) **“Terms of Reference (TOR)”** means the document included in the RFP as Section V which defines the objectives, goals, scope of work, activities, tasks, responsibilities of the Company and the Consultant, required outputs and results of the assignment, as well as background information (including a list of existing relevant studies and basic data) to facilitate the Consultants’ preparation of their proposals.
- x) **“Third Party”** means any person or entity other than the Company, the Consultant or a Sub-Consultant.

2. Relationship between the Parties

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

3. Governing Law

- 3.1. The Contract shall be governed by and interpreted in accordance with the laws of the Kingdom of Bhutan. The courts of Thimphu shall have exclusive jurisdiction in all matters arising out of the Contract unless otherwise stated in the SCC.
- 3.2. The Consultant shall, in all matters arising in the performance of the Contract, comply in all respects, give all notices and pay all fees required by the provisions of any statute, ordinance or other law or any regulation or by law of any duly constituted authority of the Kingdom of Bhutan.
- 3.3. The Consultant shall indemnify and hold harmless the Company from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Consultant or its personnel including its Sub-Consultants and their employees.

4. Language

- 4.1. The Contract, as well as all correspondence and documents relating to the Contract exchanged by the Consultant and the Company, shall be written in English. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Contract, the translation shall govern.
- 4.2. The Consultant shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Consultant.

5. Headings

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

6. Notices

- 6.1. Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to

whom the communication is addressed, or when sent to such Party at the address specified in the SCC.

- 6.2. A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SCC.

7. Location

- 7.1. The Services shall be performed at such locations as are specified in the SCC, Appendix A of Appendices hereto and, where the location of a particular task is not so specified, at such locations, whether in Bhutan or elsewhere, as the Company may approve.

8. Authority of Member in Charge

- 8.1. In case the Consultant consists of a joint venture/consortium/association of more than one entity, the Members hereby authorize the entity specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Company under this Contract, including without limitation the receiving of instructions and payments from the Company.

9. Authorized Representatives

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

10. Contract Performance Security

- 10.1. The Consultant shall provide a Performance Security for the due performance of the Contract in the amount and currency specified in the SCC. The proceeds of the Performance Security shall be payable to the Company as compensation for any loss resulting from the Consultant's failure to complete its obligations under the Contract.
- 10.2. The Performance Security shall be denominated in the currency (ies) of the Contract or in a freely convertible currency acceptable to the Company, and shall be valid until the successful completion of the Contractor's performance obligations under the Contract, including any warranty obligations, and shall be in one of the following forms:
- a) Unconditional bank guarantee,
 - b) Banker's certified cheque/cash warrant, or
 - c) Demand draft.
- 10.3. The Performance Security shall be discharged by the Company and returned to the Consultant not later than thirty (30) days following the date of completion of the Consultant's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the SCC.

11. Taxes and Duties

- 11.1. Unless otherwise specified in the SCC, the consultant, sub-consultants and personnel shall pay such taxes, duties, fees and other impositions as may be levied under the applicable law.

12. Fraud and Corruption

- 12.1. It is required that Consultants, their Sub-Consultants and the Personnel of both of them observe the highest standards of ethics during the execution of the Contract.
- 12.2. For the purposes of this sub-clause, the terms set forth are defined as follows:
- a) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - b) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - c) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - d) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - e) “obstructive practice” is
 - i. deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede any investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - ii. acts intended materially to impede the exercise of the inspection rights of the Company or any organization or person appointed by the Company.
- 12.3. the Company will cancel the Contract if it at any time determines that representatives of the Consultant, any Sub-Consultant, the personnel of either of them, or any other participant in the procurement and Contract execution process, were engaged in corrupt, fraudulent, collusive, coercive or obstructive practices during the procurement and selection process or the execution of the Contract.

- 12.4. the Company will sanction a Consultant, Sub-Consultant or the personnel of either of them, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded the Company Contract if at any time it determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, the Company Contract.
- 12.5. the Company will report the case of corrupt, fraudulent, collusive, coercive or obstructive practice to the relevant RGoB agencies, including but not limited to the Anti-Corruption Commission (ACC) of Bhutan, for necessary action in accordance with the statutes and provisions of the relevant agency.
- 12.6. the Company will require the successful Consultant to disclose any commissions or fees that may have been paid or are to be paid to agents, representatives or commission agents with respect to the selection process or the execution of the Contract. The information disclosed must include at least the name and address of the agent, representative or commission agent, the amount and currency, and the purpose of the commission or fee.

13. High Standard of Conduct

- 13.1. The client requires that the consultant and its personnel maintain a high standard of conduct when carrying out their functions under this contract. Accordingly, the consultant and its personnel are expected to recognize the contribution of others, regardless of their nationality, gender, religion, seniority or contractual status. The client will take prompt action to address incidents involving conduct that does not live up to these standards, which may result in replacement of any individual expert, consultant, or contractual staff involved in such incidents pursuant to Clause 0.
- 13.2. This Contract shall come into force and effect on the date (the “Effective Date”) of the Company’s notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.

14. Termination of Contract for failure to become effective

- 14.1. If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SCC, either Party may, by not less than twenty-one (21) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

15. Commencement

- 15.1. The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC.

16. Expiration of Contract

- 16.1. Unless terminated earlier pursuant to 22 hereof, this Contract shall expire at the end of such time period after the Effective Date as is specified in the SCC.
- 16.2. If the Contractor fails to complete the work within the stipulated time, then Liquidated Damage shall be deducted as mentioned in 0.

17. Liquidity Damages

- 17.1. The Consultant shall be liable to pay liquidated damages to the Client at the rate per day stated in the for each day delay later than the Intended Completion Date, pursuant to 0: Expiration of Contract.
- 17.2. If the Consultant fails to complete the work as per schedule mentioned in Clause 16.1, the client shall, without prejudice to its other remedies under the Contract, deduct the amount from any monies in its hands, due or which may become due to the Contractor, as liquidated damages a sum equivalent to 0.05% to 0.3% of the Contract Price for delay of each day subject to maximum of 10% of the Contract Price.

18. Entire Agreement

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

19. Modifications or Variation

- 19.1. Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

20. Force Majeure

- 20.1. “Force Majeure” shall mean any event or circumstance beyond the control of the Company or of the Consultant, as the case may be, and which is unavoidable notwithstanding the reasonable care of the Party affected and which substantially affect the performance of the Contract. The event and circumstances of Force Majeure shall include, without limitation, the following:
 - a) war, hostilities or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy and civil war;

- b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion and terrorist acts;
 - c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or de-jure or de-facto authority or ruler or any other act or failure to act of any government authority;
 - d) strike by persons other than Contactor's or Sub Consultants employees/workers/labourers, sabotage, lockout, freight embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, epidemics, quarantine and plague;
 - e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves or other natural or physical disaster;
 - f) shortage of labor, materials or utilities where caused by circumstances that are themselves Force Majeure.
- 20.2. 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 both to take into account at the time of the conclusion of this Contract, and to avoid or overcome in the carrying out of its obligations hereunder.
- 20.3. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.
- 20.4. The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.
- 20.5. Measures to be taken:**
- 20.5.1. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- 20.5.2. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

- 20.5.3. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 20.5.4. During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Company, shall either:
- a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incur, and, if required by the Company, in reactivating the Services; or
 - b) continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.
- 20.5.5. In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to 0.

21. Suspension

- 21.1. the Company may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension. Upon remedying the failure by the Consultant, the payments to the Consultant shall be commenced.

22. Termination

22.1. Termination by the Company

- 22.1.1. the Company may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (g) of this clause. In such an occurrence the Company shall give not less than thirty (30) days written notice of termination to the Consultant, or sixty (60) days in case of the event referred to in paragraph (g) of this clause.
- a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to 0 hereinabove, within forty-five (45) days of receipt of such notice of suspension or within such further period as the Company may have subsequently approved in writing.
 - b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its Members becomes) insolvent or bankrupt or enters into any agreements with its creditors for relief of debt or takes advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary.

- c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to 0 hereof.
- d) If the Consultant, in the judgment of the Company, has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for or in executing this Contract.
- e) If the Consultant submits to the Company a false statement which has a material effect on the rights, obligations or interests of the Company.
- f) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a continuous period of not less than sixty (60) days.
- g) If the Company, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

22.2. Termination by Consultant

22.2.1. The Consultant may terminate this Contract, by not less than thirty (30) days written notice to the Company, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this clause.

- a) If the Company fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to 0 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue.
- b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a continuous period of not less than sixty (60) days.
- c) If the Company fails to comply with any final decision reached as a result of arbitration pursuant to 0 hereof.
- d) If the Company is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Company of the Consultant's notice specifying such breach.

22.3. Cessation of rights and obligations

22.3.1. Upon termination of this Contract pursuant to 0 or 22 hereof, or upon expiration of this Contract pursuant to 0 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in 0 hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of its accounts and records set forth in 0 thereof (applicable for only time based contract), and (iv) any right which a Party may have under the Applicable Laws of Bhutan.

22.4. Cessation of Services

22.4.1. Upon termination of this Contract by notice of either Party to the other pursuant to 22.1 or 22.2 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice,

take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment, vehicles and/or materials furnished by the Company, the Consultant shall proceed as provided respectively by 0 or 0 hereof.

22.5. Payment upon Termination

- 22.5.1. Upon termination of this Contract pursuant to 22.1 or 22.2 hereof, the Company shall make the following payments to the Consultant:
- a) remuneration pursuant to 46.1 hereof for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures pursuant hereof for expenditures actually incurred prior to the effective date of termination; and
 - b) except in the case of termination pursuant to paragraphs (a) through (e) of 22.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract including the cost of the return travel of the Personnel.

22.6. Disputes about events of Termination

- 22.6.1. If either Party disputes whether an event specified in paragraphs (a) through (f) of 22.1 or in 22.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter for settlement through arbitration under 0 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

23. Standard of Performance

- 23.1. The Consultant shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Company, and shall at all times support and safeguard the Company's legitimate interests in any dealings with Sub-Consultants or Third Parties.

24. Law governing Services

- 24.1. The Consultant shall perform the Services in accordance with the Applicable Laws of Bhutan and shall take all practicable steps to ensure that any Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants, comply with the said Applicable Laws. the Company shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

25. Conflict of Interest

- 25.1. The Consultant shall hold the Company's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or its own corporate interests.

26. Consultant not to benefit from Commissions, Discounts, etc.

- 26.1. The payment of the Consultant pursuant to 46 hereof shall constitute the Consultant's only payment in connection with this Contract and, subject to 0 hereof, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its 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 payment.
- 26.2. Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Company on the procurement of goods, works or services, the Consultant shall comply with the applicable procurement guidelines, and shall at all times exercise such responsibility in the best interests of the Company. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Company.

27. Consultants and Affiliates not to engage in certain activities

- 27.1. The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.

28. Prohibition of conflicting activities

- 28.1. The Consultant shall not engage, and shall cause its Personnel as well as its Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

29. Confidentiality

- 29.1. Except with the prior written consent of the Company, the Consultant and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services.

30. Liability of the Consultant

30.1. Subject to additional provisions, if any, set forth in the SCC, the Consultant's liability under this Contract shall be governed by the Applicable Laws of Bhutan.

31. Insurance

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

32. Accounting, Inspection and Auditing for time-based Contracts

32.1. The Consultant (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 costs, and the bases thereof, and (ii) shall periodically permit the Company or its designated representative, for a period of up to five (5) years from 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 Company.

33. Actions requiring prior approval

33.1. The Consultant shall obtain the Company's prior approval in writing before taking any of the following actions:

- a) Any change or addition to the Personnel listed in Appendix C of Appendices.
- b) Subcontracts: The Consultant may subcontract work relating to the Services to an extent and with such experts and entities as may be approved in advance by the Company. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services. In the event that any Sub-Consultants are found by the Company to be incompetent or incapable in discharging their assigned duties, the Company may request the Consultant to provide a replacement, with qualifications and experience acceptable to the Company, or to resume the performance of the Services itself.
- c) Any other action that may be specified in the SCC.

34. Reporting Obligations

34.1. The Consultant shall submit to the Company the reports and documents specified in Appendix B of Appendices hereto, in the form, in the numbers and within the time

periods set forth in the said Appendix. Final reports shall be delivered on CD ROM in addition to the hard copies specified in the said Appendix.

35. Documents prepared by Consultants

- 35.1. All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the Company under this Contract shall become and remain the property of the Company, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Company, together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software, and use such software for its own use with prior written approval of the Company. If license agreements are necessary or appropriate between the Consultant and third parties for the purposes of development of any such computer programs, the Consultant shall obtain the Company's prior written approval to such agreements, and the Company shall be entitled at its discretion to require recovery of the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC.

36. Equipment, vehicles and materials provided by the Company

- 36.1. Equipment, vehicles and materials made available to the Consultant by the Company, or purchased by the Consultant wholly or partly with funds provided by the Company, shall be the property of the Company and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Company an inventory of such equipment, vehicles and materials and shall dispose of such equipment and materials in accordance with the Company's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Company in writing, shall insure them at the expense of the Company in an amount equal to their full replacement value.

37. Equipment and materials provided by the Consultant

- 37.1. Equipment or materials brought into Bhutan by the Consultant and the Personnel and used either for the Project or personal use shall remain the property of the Consultant or the Personnel concerned, as applicable.

38. Consultant's Personnel and Sub-consultants

- 38.1. The Consultant shall employ and provide such qualified and experienced Personnel and Sub-Consultants as are required to carry out the Services.
- 38.2. The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant's Key Personnel are described in Appendix C of Appendices. If any of the Key Personnel has already been approved by the Company, his/her name is to be listed as well.

38.3. This clause 38.3 is applicable only for Time-Based Contracts

- 38.3.1. In order to comply with the provisions of 23 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix C of Appendices may be made by the Consultant by written notice to the Company, 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 46.1.1(b) of this Contract. Any other such adjustments shall only be made with the Company's written approval.
- 38.3.1. If additional work is required beyond the scope of the Services specified in Appendix A of Appendices, the estimated periods of engagement of Key Personnel set forth in Appendix C of Appendices may be increased by agreement in writing between the Company and the Consultant. In case payments under this Contract exceed the ceilings set forth in 46.1.1 (b), of this Contract, this will be explicitly mentioned in the agreement.

39. Approval of Personnel

- a. The Key Personnel and Sub-Consultants listed by title as well as by name in Appendix C of Appendices are hereby approved by the Company. In respect of other Personnel which the Consultant proposes to use in carrying out the Services, the Consultant shall submit to the Company for review and approval a copy of their Curricula Vitae (CVs). If the Company does not object in writing (stating the reasons for the objection) within twenty-one (21) days from the date of receipt of such CVs, such Personnel shall be deemed to have been approved by the Company.

40. Working hours, overtime, leave, etc.

(This clause is applicable only for Time-Based Contracts)

- 40.1. Working hours and holidays for Key Personnel are set forth in Appendix C of Appendices hereto. To account for travel time, Foreign Personnel carrying out Services inside Bhutan 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 Bhutan as is specified in Appendix C of Appendices hereto.
- 40.2. The Key Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave. The Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in Appendix C of Appendices.

41. Removal and/or Replacement of Personnel

- 41.1. Except as the Company may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Consultant, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications.
- 41.2. If the Company (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 Consultant shall, at the Company's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Company.

(This clause is applicable for only Time-Based Contracts)

- 41.3. Any of the Personnel provided as a replacement under 41.1 and 41.2 above, as well as any reimbursable expenditure (including expenditures due to the number of eligible dependents) the Consultant may wish to claim as a result of such replacement, shall be subject to prior written approval by the Company. The rate of remuneration applicable to a replacement person will be obtained by multiplying the rate of remuneration applicable to the replaced person by the ratio between the monthly salary effectively to be paid to the replacement person and the average salary effectively paid to the replaced person in the period six months prior to the date of replacement. Except as the Company may otherwise agree, (i) the Consultant 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 for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.

41.4. In case of Lump-Sum Contracts, the above clause shall NOT be applicable.

In Lump-Sum Contracts, the Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

42. Resident Project Manager

- 42.1. If required by the SCC, the Consultant shall ensure that at all times during the Consultant's performance of the Services in Bhutan a resident project manager, acceptable to the Company, shall take charge of the performance of such Services.

43. The Company's Obligations

- 43.1. Unless otherwise specified in the SCC, the Company shall use its best efforts to ensure that the Government shall:

- a) Provide the Consultant, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services.
- b) Arrange 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 Bhutan.
- 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) Exempt the Consultant and the Personnel and any Sub-Consultants employed by the Consultant for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Laws of Bhutan.
- f) Grant to the Consultant, any Sub-Consultants and the Personnel of either of them the privilege, pursuant to the Applicable Laws of Bhutan, of bringing into Bhutan 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.
- g) Provide to the Consultant, Sub-Consultants and Personnel any such other assistance as may be specified in the SCC.

44. Change in applicable laws

44.1. If, after the date of this Contract, there is any change in the Applicable Laws of Bhutan with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant 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 46.1.1.

45. Services, Facilities and Property of the Company

45.1. the Company shall make available to the Consultant and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix F of Appendices at the times and in the manner specified in the said Appendix F of Appendices.

45.2. In case such services, facilities and property are not be made available to the Consultant as and when specified in Appendix F of Appendices, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities

and property from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to 46.1.1.

46. Payments

46.1. Payment clauses in case of Time-Based Contracts.

46.1.1. Cost estimates and Ceiling Amount

- a) An estimate of the cost of the Services payable in foreign currency is set forth in. An estimate of the cost of the Services payable in local currency is set forth in the SCC.
- b) Except as may be otherwise agreed under 0 and subject to 46.1.1(c), payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in the SCC.
- c) Notwithstanding 46.1.1(b) hereof if, pursuant to any of 44 or 45 hereof, the Parties shall agree that additional payments in local and/or foreign currency, as the case may be, shall be made to the Consultant in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in 46.1.1(a) above, the ceiling or ceilings, as the case may be, set forth in 46.1.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

46.1.2. Remuneration and Reimbursable expenses

- a) Subject to the ceilings specified in 46.1.1 (b) hereof, the Company shall pay to the Consultant (i) remuneration as set forth in 46.1.2 (b) hereunder, and (ii) reimbursable expenses as set forth in 46.1.2 (c) hereunder. Unless otherwise specified in the SCC, said remuneration shall be fixed for the duration of the Contract.
- b) Payment 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 0 and (or such other date as the Parties shall agree in writing), at the rates referred to in, and subject to price adjustment, if any, specified in SCC.
- c) Reimbursable expenses actually and reasonably incurred by the Consultant in the performance of the Services, as specified in SCC.
- d) Any rates specified for Personnel not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Company, once the applicable salaries and allowances are known.
- e) Payments for periods of less than one month shall be calculated on an hourly basis for actual time spent in the Consultant's home office and directly attributable to the Services (one hour being equivalent to 1/176th of a month or twenty-two (22) days

being equal to one month) and on a calendar-day basis for time spent away from home office (one day being equivalent to 1/30th of a month).

46.1.3. Currency of Payment

Foreign currency payments shall be made in the currency or currencies specified in the, and local currency payments shall be made in Bhutanese Ngultrum (BTN).

46.1.4. Mode of billing and payment

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

- a) Within the number of days after the Effective Date specified in the SCC, the Company shall cause to be paid to the Consultant advance payments in foreign currency and in Bhutanese Ngultrum (BTN) as specified in the. When the indicate advance payment, this will be due after provision by the Consultant to the Company of an advance payment guarantee acceptable to the Company in an amount (or amounts) and in a currency (or currencies) specified in the SCC. Such guarantee shall (i) remain effective until the advance payment has been fully set off, and (ii) be in the form set forth in Appendix H of Appendices hereto, or in such other form as the Company shall have approved in writing. The advance payments will be set off by the Company in equal instalments against the statements for the number of months of the Services specified in the until said advance payments have been fully set off.
- 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, or after the end of each time interval otherwise indicated in the SCC, the Consultant shall submit to the Company, in duplicate, itemized statements, accompanied by copies of invoices, vouchers and other appropriate supporting materials, of the amounts payable pursuant to 46.1.3 and 46.1.4 for such month, or any other period indicated in the SCC. Separate statements shall be submitted in respect of amounts payable in foreign currency and in local currency. Each statement shall distinguish that portion of the total eligible costs which pertains to remuneration from that portion and which pertains to reimbursable expenses.
- c) the Company shall pay the Consultant's statements within thirty (30) days after the receipt by the Company of such statements with supporting documents. Only such portion of a 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 Consultant, the Company may add or subtract the difference from any subsequent payments. Interest at the annual rate specified in the SCC shall become payable as from the above due date on any amount due by, but not paid on, such due date.
- d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as

satisfactory by the Company. The Services shall be deemed completed and finally accepted by the Company and the final report and final statement shall be deemed approved by the Company as satisfactory ninety (90) days after receipt of the final report and final statement by the Company unless the Company, within such ninety (90) day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final statement. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount which the Company 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 Consultant to the Company within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Company for reimbursement must be made within twelve (12) calendar months after receipt by the Company of a final report and a final statement approved by the Company in accordance with the above.

- e) All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.
- f) Payments in respect of remuneration or reimbursable expenses which exceed the cost estimates for these items as set forth in Appendix D and E of Appendices may be charged to the respective contingencies provided for foreign and local currencies only if such expenditures were approved by the Company prior to being incurred.
- g) With the exception of the final payment under (d) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.

46.2. Payment clauses in case of Lump-Sum Contracts.

46.2.1. Lump-Sum Payment

The total payment due to the Consultant shall not exceed the Contract Price which is an all-inclusive fixed lump-sum covering all costs required to carry out the Services described in Appendix A of Appendices. Except as provided in 44 and 45.2, if the Parties have agreed to additional payments in accordance with 0.

46.2.2. Payment for additional services

For the purpose of determining the remuneration due for additional services as may be agreed under 0, a breakdown of the lump-sum price is provided in Appendices D and E of Appendices.

46.2.3. Terms and conditions of payment

Payments will be made to the account(s) of the Consultant and according to the payment schedule stated in the SCC. Unless otherwise stated in the, the first payment shall be made against the provision by the Consultant of an advance payment guarantee for the same

amount, and shall be valid for the period stated in the. Such guarantee shall be in the form set forth in Appendix H of Appendices, or in such other form as the Company shall have approved in writing. Any other payment shall be made after the conditions listed in the for such payment have been met, and the Consultant has submitted an invoice to the Company specifying the amount due.

46.2.4. Interest on delayed payments

If the Company has delayed payments beyond fifteen (15) days after the due date stated in the, interest shall be paid to the Consultant for each day of delay at the rate stated in the SCC.

47. Fairness and Good Faith

- 47.1. 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.
- 47.2. 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 0 hereof.

48. Settlement of Disputes

48.1. Amicable Settlement

48.1.1. If any dispute of any kind whatsoever arises between Employer and the Consultant in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity or termination, or the execution of the works – whether during the progress of the works or after their completion and whether before or after the termination, abandonment or breach of the Contract – the parties shall seek to resolve any such dispute or difference by mutual consultation.

48.2. Adjudicator

48.2.1. If any dispute of any kind whatsoever shall arise between the Company and the Consultant in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity or termination, or the execution of the Works– whether during the progress of the Works or after their completion and whether before or after the termination, abandonment or breach of the Contract – the Parties shall seek to resolve any such dispute or difference by mutual consultation. If the Parties fail to resolve such a dispute or difference by mutual

consultation, then the dispute shall be referred in writing by either Party to the Adjudicator, with a copy to the other Party.

- 48.2.2. The Adjudicator shall be jointly appointed by the Company and the Contractor under the Contract. Failing agreement between the two within thirty (30) days, the Adjudicator shall be appointed under the Contract on the request of either Party by the Appointing Authority specified in the . The Adjudicator so appointed shall be by mutual consent.
- 48.2.3. The Adjudicator shall give its decision in writing to both Parties within thirty (30) days of a dispute being referred to it. If the Adjudicator has done so, and no notice of intention to commence arbitration has been given by either the Company or the Consultant within fifty-six (56) days of such reference, the decision shall become final and binding upon the Company and the Consultant. Any decision that has become final and binding shall be implemented by the Parties forthwith.
- 48.2.4. Should the Adjudicator resign or die, or should the Company and the Consultant agree that the Adjudicator is not fulfilling its functions in accordance with the provisions of the Contract; another Adjudicator shall be appointed in the same manner as provided in 48.2.2.
- 48.2.5. The Adjudicator shall be paid fee plus expenditures incurred in the execution of its duties as Adjudicator under the Contract as specified in the. These costs shall be divided equally between the Company and the Consultant.

48.3. Arbitration

- 48.3.1. If either the Company or the Consultant is dissatisfied with the Adjudicator's decision, or if the Adjudicator fails to give a decision within forty-five (45) days of a dispute being referred to it, then either the Company or the Consultant may, within sixty(60) days of such reference, give notice to the other Party, with a copy for information to the Adjudicator, of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- 48.3.2. Any dispute, in respect of which a notice of intention to commence arbitration has been given, in accordance with 48.3.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after completion of the Works.
- 48.3.3. Arbitration proceedings shall be conducted:
- a) in accordance with the rules of procedure designated in the SCC;
 - b) in the place designated in the SCC; and
 - c) in the language in which this Contract has been executed.

- 48.3.4. The arbitrators shall also decide on the cost of arbitration and allocation thereof. The expenses incurred by each Party in connection with the preparation and presentation of its case prior to, during and after the arbitration proceedings shall however be borne by the respective Party.
- 48.4. Notwithstanding any reference to the Adjudicator or arbitration herein:
- a) the Parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
 - b) the Company shall pay the Consultant any monies due to it.
- 48.5. The arbitration award shall be final on the Parties who shall be deemed to have accepted to carry out the resulting award without delay and to have waived their right to any form of appeal insofar as such waiver can validly be made.

49. Ownership of Deliverables

- 49.1. All custom work done by the Contractor and covered by this Contract will be treated as "work for hire" on behalf of the Company, with all rights, title, and interest in all intellectual property that comes into existence through the Consultants custom work being assigned to the Company except that Consultant retains Intellectual Property Rights with respect to Consultant's Pre-existing Work subject to the licenses and rights granted to the company in this Agreement.
- 49.2. Additionally, the Consultant waives any shop rights, author rights, and similar retained interests in custom developed material. The Consultant will provide the Company with all assistance reasonably needed to vest such ownership rights in the Company. But the Consultant will retain ownership of all tools, methods, techniques, standards, and other development procedures, as well as generic and pre-existing shells, subroutines, and similar material incorporated in any custom Deliverable ("Pre-existing Materials").
- 49.3. The Consultant will grant the Company a worldwide, non-exclusive, royalty-free perpetual license to use, modify, sell, and otherwise distribute all Pre-existing Materials which is not marked as "trade secret" are incorporated in any custom-developed Deliverable rather than grant the Company ownership of the Pre-existing Materials.
- 49.4. The Consultant will not include in any custom Deliverable any intellectual property unless such has been created under this Contract or qualifies as Pre-existing Material. If the Consultant wants to incorporate any Pre-existing materials in a custom Deliverable, the Consultant must disclose that and obtain written approval from the Company for doing so in advance.

50. Patent Indemnity

- 50.1. The Consultant shall indemnify and hold harmless the Company and its employees from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs and expenses of any nature, including attorney's fees and expenses, which the Company may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:
- a. The execution of the services by the Consultant or the use of the services in the Kingdom of Bhutan; and
 - b. The sale in any country of the products produced by the project.
- 50.2. Such indemnity shall not cover any use of the project or any part thereof other than for the purpose indicated by or reasonably to be inferred from the Contract, neither any infringement resulting from the use of the project or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Consultant, pursuant to the Contract.
- 50.3. If any proceedings are brought or any claim is made against the company arising out of the matters referred above, the company shall promptly give the consultant notice thereof, and the consultant may at its own expense and in the company's name conduct such proceedings or claims and any negotiations for the settlement of any such proceedings or claims.
- 50.4. If the consultant fails to notify the Company within thirty (30) days after receipt of such notice that it intends to conduct any such proceedings or claims, then the company shall be free to conduct the same on its own behalf at the cost of the consultant.
- 50.5. The company shall, at the Consultant's request, provide all available assistance to the Consultant in conducting such proceedings or claim, and shall be reimbursed by the Consultant for all reasonable expenses incurred in so doing.
- 50.6. The company shall indemnify and hold harmless the consultant and its employees from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs and expenses of any nature, including attorney's fees and expenses, which the consultant may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification or other documents or materials provided or designed by or on behalf of the company.

SECTION VI - SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract shall supplement and/or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

GCC Clause Reference	Particulars
3.1	The courts of Thimphu shall have exclusive jurisdiction in all matters arising out of the Contract.
7.1	Location where the services will be performed is Bhutan .
8.1	The Member in Charge shall be as per the Terms of Reference (TOR). <i>Note: If the Consultant consists of a joint venture/ consortium/ association of more than one entity, the name of the entity whose address is specified in the clause above should be inserted here. If the Consultant consists only of one entity, "Not Applicable" should be mentioned in this clause.</i>
	The effectiveness conditions are the following: This contract shall come into force and effect from the date of signing of contract agreement or issuance of service order
15.1	The consultant shall commence carrying out the services after the date of signing of contract agreement or issuance of service order.
16.1	The time period for expiration of contract shall be as per TOR .
17.1	Liquidated Damages shall be as follows: as per TOR
GCC 26	Early completion bonus: Not Applicable
above	<p>{Note: Proposals to introduce exclusions/ limitations of the Consultant's liability under the Contract should be carefully scrutinized by the Company. In this regard the parties should be aware of the relevant policy on this matter which is as follows:</p> <ol style="list-style-type: none"> 1. If the Parties agree that the Consultant's liability should simply be governed by the Applicable Laws of Bhutan, they should mention "Not Applicable" in this clause. 2. If the Parties wish to limit or to partially exclude the Consultant's liability to the Company, they should note that, to be acceptable to the Company, any limitation of the Consultant's liability should at the very least be reasonably related to <ol style="list-style-type: none"> (a) the damage the Consultant might potentially cause to the Company, and (b) the Consultant's ability to pay compensation using its own assets and reasonably obtainable insurance coverage. The Consultant's liability should not be limited to less than a multiplier of the total payments to the Consultant under the Contract for remuneration and reimbursable expenses. A statement to the effect that the Consultant is liable only for the re-performance of faulty Services is not acceptable. Also, the Consultant's liability should never be limited for loss or damage caused by the Consultant's gross negligence or willful misconduct. Consequently, the Company could accept the following provisions with respect to the Consultant's liability, which the Parties could introduce here in the as follows:

GCC Clause Reference	Particulars
	<p>“Limitation of the Consultant’s Liability towards the Company:</p> <ul style="list-style-type: none"> a) Except in case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Company’s property, shall not be liable to the Company: <ul style="list-style-type: none"> i. for any indirect or consequential loss or damage; and ii. for any direct loss or damage that exceeds by <i>[insert a multiplier, e.g.: three]</i> times the total value of the Contract. b) This limitation of liability shall not affect the Consultant’s liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services.” <p>3. the Company must not accept a provision to the effect that the Company shall indemnify and hold harmless the Consultant against third party claims, except, of course, if a claim is based on loss or damage caused by a default or wrongful act of the Company.}</p>
	<p>The Bidder shall take the following risks and coverage:</p> <ul style="list-style-type: none"> a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in Bhutan by the Consultant or its Personnel or any Sub-Consultants or their Personnel. b) Third Party liability insurance. c) Professional liability insurance. d) Employer’s liability and workers’ compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultants, in accordance with the relevant provisions of the Applicable Laws of Bhutan, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and e) Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant’s property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.
above	<p>The Consultant shall obtain the DHI’s prior approval in writing before taking any of the following actions:</p> <ul style="list-style-type: none"> a. Any change or addition to the Personnel listed in Appendix C of Appendices.

GCC Clause Reference	Particulars
	<p>b. Subcontracts: The Consultant may subcontract work relating to the Services to an extent and with such experts and entities as may be approved in advance by the DHI. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services. In the event that any Sub-Consultants are found by the DHI to be incompetent or incapable in discharging their assigned duties, the DHI may request the Consultant to provide a replacement, with qualifications and experience acceptable to the DHI, or to resume the performance of the Services itself.</p>
35.1	The consultant shall not use these documents and software for purposes unrelated to this Contract without the prior written approval from DHI.
GCC 40	Not applicable for lumpsum contract.
42.1	The person designated as resident project manager: Not Applicable
43.1 (g)	Provide to the consultant and Personnel any assistance as may be required.
46.1.1 (a)	Payable in local currency quoted in the Price Schedules/Invoice.
46.1.1 (b)	<p>The ceiling in foreign currency or currencies is: Not Applicable The ceiling in local currency is: Not Applicable</p>
46.1.2 (a)	Remuneration and reimbursable expense to consultant: As per the Breakdown of Costs proposed
46.1.2 (b)	Not Applicable
46.1.3	<p>Payment in Foreign currency shall be: Not payable except in Bhutanese Currency (BTN). Payment in Foreign currency shall apply to the advance payment and the advance payment guarantee: Not Applicable</p>
46.1.4 (a)	The following provisions shall apply to the advance payment and the advance payment guarantee: Not Applicable
46.1.4 (b)	The Consultant shall submit to the DHI itemized statements at time intervals: YES
46.1.4 (c)	The interest rate payable is: Not Applicable
46.2.3	<p>Payments shall be made according to the following schedule: Payment shall be made as per the Payment Milestone of the ToR.</p>
46.2.4	The interest rate for delayed payment is: Not Applicable
48.3.3 (a) and (b)	Institution whose arbitration procedures shall be used:

SECTION VII - CONTRACT FORMS

Form A – Letter of Award

TIME-BASED/ LUMP-SUM (AS APPLICABLE. RELEVANT CHANGES NEEDS TO BE MADE IN GCC AND ALSO)

Reference No.

Date.....

To

[Name and Address of the Consultant]

Dear Sirs,

This is to notify you that your Bid dated..... for execution of the
..... *[Name of the Contract and Tender No., as given in ITB]* for the
Contract Price of *[Name of the currency and amount in words and
figures as corrected and modified in accordance with the ITB]* is hereby accepted by (... insert name of
Company.....).

You are hereby requested to furnish Contract Performance Security, in the form detailed in 0 for an amount
of*[insert amount of performance security]* within Thirty (30) days of the receipt of this Letter
of Award and the validity of the Contract Performance Security shall be up to*[insert validity]*

Failure to submit the Contract Performance Security within the period stipulated above shall constitute a
ground for the annulment of the award and entail forfeiture of Bid Security.

This letter is being issued to you in duplicate. Please retain one copy for your records and return the other
copy to (... insert name of Company.....). after recording on the letter “Accepted Unconditionally” under
the signature of the authorized signatory.

Please acknowledge receipt.

Yours faithfully,

Signature

[Name and title of signatory]

[Company’s address]

Form B – Contract Agreement

TIME-BASED/ LUMP-SUM (AS APPLICABLE. RELEVANT CHANGES NEEDS TO BE MADE IN GCC AND ALSO)

(Text in brackets [] is optional; all notes should be deleted in final text)

This CONTRACT (hereinafter called the “Contract”) is made the [day] day of the month of [month], [year], between, on the one hand, [full name of the Company] (hereinafter called “TTPL”) and, on the other hand, [name of Consultant] (hereinafter called the “Consultant”).

[Note: If the Consultant consists of more than one entity, the above should be partially amended to read as follows: “... (hereinafter called the “DHI”) and, on the other hand, a joint venture/consortium/association consisting of the following entities, each of which will be jointly and severally liable to the DHI for all the Consultant’s obligations under this Contract, namely, [name of Consultant] and [name of Consultant] (hereinafter called the “Consultant”).]

WHEREAS

The DHI has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”); and

the Consultant, having represented to the Employer that he has the required professional skills, personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - a) Letter of Award
 - b) The Special Conditions of Contract;
 - c) The General Conditions of Contract;
 - d) The following Appendices:

[Note: If any of these Appendices are not used, the words “Not Used” should be inserted below, next to the title of the Appendix]

Appendix A	Description of Services	Insert “Not Used” as per Note above if Appendix is not used.
Appendix B	Reporting Requirements	Insert “Not Used” as per Note above if Appendix is not used.
Appendix C (For Time-Based Contracts)	Personnel and Sub- Consultant – Hours of Work for Key Personnel	Insert “Not Used” as per Note above if Appendix is not used.
Appendix D (For Lump-Sum Contracts)	Key Personnel and Sub- Consultant	Insert “Not Used” as per Note above if Appendix is not used.

Appendix D	Duties of the Company	<i>Insert “Not Used” as per Note above if Appendix is not used.</i>
Appendix H	Form of Advance Payments Guarantee	<i>Insert “Not Used” as per Note above if Appendix is not used.</i>

2. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
3. The mutual rights and obligations of the Employer and the Consultant shall be as set forth in the Contract, in particular:
 - (a) the Consultant shall carry out the Services in accordance with the provisions of the Contract; and
 - (b) the DHI any shall make payments to the Consultant in accordance with the provisions of the Contract.
3. The Contract amount between the DHI and the Consultant shall be

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.

Scaled and Signed by both parties

SECTION VIII - PERFORMANCE EVALUATION SYSTEM

1. Introduction

A consultant performance evaluation is a standardized, systematic and objective assessment of a consultant's performance on a specific project contract. This enables the Company to judge whether the consultant has performed the work to a high standard on a number of fronts, and whether it is worth engaging them for future projects.

The performance evaluation criteria shall be used for each consultant immediately with the commissioning of any services after the award of contract. The consultants shall be evaluated as the project progresses.

2. Objectives

The main objectives of the performance evaluation of Consultants for services are as follows:

- To adopt a more holistic approach in reviewing overall performance of Consultant;
- To work with Consultant to raise safety and quality standards;
- To encourage an environment of continuous improvement by Consultant;
- To build partnership with Consultant in specific and strategic areas; and
- To have a list of preferred Consultant to be selected for limited bidding process

3. Performance Evaluation System (PES)

The assessment of the Consultants shall be done as follows:

	Performance Criteria	Weightage
	Scope Management	15%
	Time Management	20%
	Quality Management	30%
	General Assessment	35%
Total		100%

3.1 Scope Management (15%)

SN	Evaluation on Criteria	Score	Key performance measure	Remarks
3.1.1	Comment	5%	✓ Early= 120% ✓ On time=100%	As per the contract agreement

SN	Evaluation Criteria	Score	Key performance measure	Remarks
			✓ Late=0%	
3.1.2	Work Schedule	5%	On time =100% or else 0%	As per contract agreement
3.1.3	Resource deployment	5%	Full deployment = 100% or else 0%	As per contract agreement

3.2 Time Management (20%)

SN	Evaluation Criteria		Key performance measurement	Remarks
3.2.1	Meeting Milestones/Deliverables		✓ On time = 100% ✓ Delay up to 20% = 80% ✓ Beyond 20% = 0%	To be measured as per the work schedule submitted.
3.2.2	Submission of revised work schedules		Timely= 100% or else 0%	To be measured based on the written request made by the Project Manager
3.2.3	Timely response to Client's instruction		✓ 100% response = 100%. ✓ 80% response = 80%. ✓ Less than 80% response = 0%	Calculation will be based on the number of requests made by the Project Manager/Project Engineer.
3.2.4	Problem identification and problem solving		Timely intimation = 100 % or 0%	Timely intimation resulting in resolving of problems during the contract period.

3.3 Quality Management (30%)

	Evaluation Criteria	Score	Key performance measurement	Remarks
	Compliance to TOR	10%	✓ Strict adherence =100% ✓ With minor deviations= 80% ✓ Frequent non-compliance= 0%	✓ Minor deviations would mean deviations which does not lead to major issues to the project. ✓ Frequent non-compliance would

	Evaluation Criteria	Score	Key performance measurement	Remarks
				mean non-compliance leading to delays.
	Response to Non-Compliance, Complaints and Notices	10%	<ul style="list-style-type: none"> ✓ 100% response = 100%. ✓ 80% response = 80%. ✓ Less than 80% response = 0% 	Calculation will be based on the number of requests made by the Project Manager.
	Innovation and alternate option/ design solution during the course of work.	5%	<ul style="list-style-type: none"> ✓ Yes = 100% ✓ No=0% 	
	Overall quality of the design, reports and presentation	10%	<ul style="list-style-type: none"> ✓ Excellent = 100% ✓ Good with comments =50% ✓ Poor or rejected = 0% 	

3.4 General Assessment (35%)

	Evaluation Criteria		Key performance measurement	Remarks
	Cooperation and Coordination with Employer		<ul style="list-style-type: none"> ✓ Excellent = 100% ✓ Good = 50% ✓ Poor = 0% 	To be rated on the promptness of the Contractor on resolution of any issue and on following the guidelines set in the Contract Document. Also, on the communication, returning of phone calls or replying of emails.
	Personnel Resource Management		Availability of proposed professional = 100% or else 0%	As per the staffing schedule submitted and agreed between both the parties.
	Technical Competence		<ul style="list-style-type: none"> ✓ Excellent (resolves issues by themselves) = 100% 	The ability of the consultant to resolve an issue and notifying the Client on the same.

	Evaluation Criteria		Key performance measurement	Remarks
			<ul style="list-style-type: none"> ✓ Good (with discussion with Client) = 50% ✓ Poor (solutions given by the Client) = 0% 	
	Integrity and Ethical Conduct		Zero written complaints = 100% or else 0%	
	Accurate communication		<ul style="list-style-type: none"> ✓ Excellent=100% ✓ Good= 80% ✓ Poor = 0% 	An excellent communication would mean returning calls and emails before the day ends.
	Trainings and back up services		Survey to be conducted = 100% or else 0%	
	Problem Resolution		<ul style="list-style-type: none"> ✓ Excellent= 100% ✓ Good (needs to be prompted twice) = 50% ✓ Poor (always needs to be prompted) =0 	An excellent Consultant would mean being proactive and providing problem resolution without the need of being prompted.

4. Consultant Assessment Category

The Consultants shall be categorized into three categories as under:

Category	Score	Remarks
A	80-100	Recommended/Preferred Consultants
B	50-79	<ul style="list-style-type: none"> ✓ Consultants must be developed; ✓ Consider, but with mandatory debriefing on the short comings.
C	0-49	Consultants not qualified

5. Evaluation Period and Debarment

5.1 Evaluation period

The Performance evaluation shall be carried out after the award of any service till its closure.

5.2 Debarment of Consultants

Based on the assessment of consultants at the closure of each project, all non-performing Consultants shall be referred to the Debarment Committee as per the Debarment Rules 2019 of RGoB. The non-performing Consultants falling under category B and C shall be subjected to referral to the Debarment Committee and the decision of the Committee shall be final and binding.

Appendix G – Form of Performance Security

To

Whereas (Name of the Consultant) herein after called the “Consultant” has undertaken _____
_____(Name of works) in pursuance of Contract No. _____dated.....herein
after called the “Contract”.

AND WHEREAS it has been stipulated by you in the Contract that the Consultant shall furnish you with a
Bank Guarantee by (Name of the Bank) for the sum of (specify amount)
as security for compliance with the Consultant’s performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the Consultant a guarantee; therefore we hereby affirm that we
are guarantors and responsible to you, on behalf of the Consultant, up to a total of (amount of guarantee in
words and figures) and we undertake to pay you, upon your first written demand declaring the Consultant
to be in default under the Contract, and without cavil or argument, any sum or sums as specified by you,
within the limit if.....as aforesaid , without your needing to prove or show grounds or reasons for your
demand or the sum specified therein.

The guarantee is valid until _____Day of _____

[NAME OF GUARANTOR]

(Signature)

(Name)

Authorized Representative

Date: _____

Address: _____

Appendix I - Form of Joint Venture Agreement

(On non-judicial stamp paper of appropriate value to be purchased in the name of Lead Member of the Joint Venture)

THIS Joint Venture Agreement is executed on thisday of..... Two thousand and between M/s..... a company incorporated under the laws of *(insert the name of country under the laws of which the company is incorporated for all the members)* and having its Registered Office at (hereinafter called the "Lead Member" which expression shall include its successors, executors and permitted assigns), M/s.....a company incorporated under the and having its Registered Office at..... (hereinafter called the "Member" which expression shall include its successors, executors and permitted assigns) and M/s..... a company incorporated under the and having its Registered Office at (hereinafter called the "Member" which expression shall include its successors, executors and permitted assigns) for the purpose of making a Bid and entering into a Contract (in case of award) against the NIT No.:for procurement of by(insert name of the Company) under the Companies Act of 2000 of the Kingdom of Bhutan having its Registered Office atwhich expression shall include its successors, executors and permitted assigns (hereinafter called **the Employer**).

WHEREAS the Bidding Documents stipulates that a Joint Venture of two or more firms as members, meeting the requirement of ITC.10, as applicable may Bid, provided the Lead Member and other Members if so specified fulfils all technical and financial qualification requirements listed in the BDS is met by the Joint Venture subject to the condition that each member meets at least the minimum financial qualification requirements and in such a case, the Bid shall be signed by the Lead Member of the Joint Venture, who will be jointly and severally liable to perform the Contract and all obligations hereunder.

NOW THIS INDENTURE WITNESSETH AS UNDER:

In consideration of the above premises and agreements all the Members to this Joint Venture do hereby now agree as follows:

1. In consideration of the award of the Contract by the Employer to the Joint Venture, we, the Members to the Joint Venture do hereby agree that M/sshall act as Lead Member and further declare and confirm that we shall jointly and severally be bound unto the Employer for the successful performance of the Contract and shall be fully responsible for the execution of the Works in accordance with the Contract.
2. The Lead Member is hereby authorized by the Members of the Joint Venture to bind the Joint Venture with respect to the Contract as may be awarded by the Employer and to receive instructions for and behalf of all the Members of the Joint Venture.
3. It is hereby agreed that the Lead Member shall furnish the Bid security as stipulated in the Bidding Documents on behalf of the Joint Venture.

4. In case of any breach of the said Contract by the Lead Member or other Member(s) of the Joint Venture agreement, the Member(s) do hereby agree to be fully responsible for the successful performance of the Contract and to carry out all the obligations and responsibilities under the Contract in accordance with the requirements of the Contract.
5. Further, if the Employer suffers any loss or damage on account of any breach in the Contract the member(s) of these presents undertake to promptly make good such loss or damage caused to the Employer, on its demand without any demur. It shall not be necessary or obligatory for the Employer to proceed against Lead Member to these presents before proceeding against or dealing with the other Member(s).
6. The financial liability of the member of this Joint Venture agreement to the Employer, with respect to any of the claims arising out of the performance or non- performance of the obligations set forth in the said Joint Venture agreement, read in conjunction with the relevant conditions of the Contract shall, however, not be limited in any way so as to restrict or limit the liabilities of any of the Members of the Joint Venture agreement.
7. It is expressly understood and agreed between the members to this Joint Venture agreement that the responsibilities and obligations of each of the members shall be as delineated in **Appendix-I** (**To be incorporated suitably by the members*) to this agreement. It is further agreed by the Members that the above sharing of responsibilities and obligations shall not in any way be a limitation of joint and several responsibilities of the members under this Contract.
8. It is clearly agreed that the Lead Member shall ensure performance under the Contract and if one or more of the members fail to perform its respective obligations under the Contract, the same shall be deemed to be a default of all the members of the Joint Venture.
9. It is hereby expressly agreed between those members to this Joint Venture that neither member shall assign or delegate its rights duties or obligations under this agreement except with the prior written consent of the Employer.
10. This Joint Venture agreement shall be construed and interpreted in accordance with the laws of the Kingdom of Bhutan and the courts of the Kingdom of Bhutan shall have the exclusive jurisdiction in all matters arising thereunder.
11. In case of an award of a Contract, we the members to the Joint Venture agreement do hereby agree that we shall be jointly and severally responsible for furnishing a Contract Performance Security from a bank in favour of the Employer in the forms acceptable to the Employer for value of ten percent (10%) of the Contract Price. It is further agreed that the Joint Venture agreement shall be irrevocable and shall form an integral part of the Contract, and shall continue to be enforceable till completion of the Contract. It shall be effective from the date first mentioned above for all purposes and intents.
12. We undertake that the Joint Venture agreement shall not be modified or amended without the written permission from the Employer.

IN WITNESS WHEREOF, the Members to the Joint Venture agreement have through their authorized representatives executed these presents and affixed Common Seals of their companies, on the day, month and year first mentioned above.

- 1 For lead Member
(Signature of authorized representative)
Signature
Name
Designation
- 2 For other Member
(Signature of authorized representative)
Signature
Name
Designation

WITNESSES:

- | | |
|-----------------------|------------------------|
| 1.....
(Signature) | 2.
(Signature) |
| Name | Name |
| Official Address..... | Official Address..... |