

**STANDARD REQUEST FOR PROPOSALS/  
TENDER FOR SELECTION OF CONSULTANT**

(JANUARY 2009 )

# CONTENTS

<b>S.No.</b>	<b>Particulars</b>	<b>Page No.</b>
1	Section 1. Notice inviting tender	3-5
2	Section 2. Instructions to Consultants	6– 15
	Data Sheet	16 – 18
3	Section 3. Technical Proposal-Standard Forms	19 – 31
4	Section 4. Financial Proposal – Standard Forms	32 – 34
5	Section 5. Terms of Reference	35 – 39
6	Annexure – ‘A’ (Index Map)	40
7.	Annexure – ‘B’ (Brief on works)	41 – 55
8.	Annexure – ‘C’ (TOR for works)	56 – 61
9.	Annexure – ‘D’ (Manpower estimate)	62 – 63
10.	Annexure – ‘E’ (Framework Agreement)	64 – 69
11.	Section 6. Standard Forms of Contract	70– 97
12.	Appendices	98 – 99

## **NOTICE INVITING TENDER**

**NAME OF WORK: PROJECT MANAGEMENT CONSULTANCY SERVICES FOR KALADAN MULTIMODAL TRANSIT TRANSPORT PROJECT IN MYANMAR.**

1. **Sealed Tenders on two cover system are invited on behalf of Inland Waterways Authority of India, for PROVIDING PROJECT MANAGEMENT CONSULTANCY SERVICES FOR KALADAN MULTIMODAL TRANSIT TRANSPORT PROJECT IN MYANMAR.**
  
2. The Scope of work of consultant shall be as follows;
  - 2.1 Study the existing DPRs & other documents, make field inspection to assess the ground situation in the project area, reconciling existing DPR and other documents with the present ground situation.
  - 2.2 detailed engineering design & drawings including construction drawings, preparing specifications, bill of quantities, estimates and tender documents, preparation for selection of construction contractors for development of the following project components (except Road component for which design, drawing will be provided by Myanmar Govt.) as per TOR given in the tender document.
    - Construction of Sittwe port
    - Construction of an IWT terminals at Sittwe and Kaletwa
    - Fairway development/ Sea dredging in Sittwe port area
    - Fairway development/ dredging on Sittwe-Kaletwa stretch of Kaladan River (225 kms)
    - Construction of 10 IWT vessels (260 ton each)
    - Construction of Road from Kaletwa to Indo-Myanmar Border (62 km)
  - 2.3 Co-ordination/liaison between the nodal agencies and the construction contractors; and
  - 2.4 Supervision of construction and project management of all the components of the project including Road component (Kaletwa to Indo-Myanmar border - 62 kms)
  
3. 3.1 The consultancy firms including foreign consultancy firms having full fledged branch offices in India having proven caliber, capacity and experience in the areas indicated above in the realm of Port, IWT and Road transport infrastructure projects of comparable size are eligible to bid for the work.
- 3.2 The bidders shall submit the following documents along with the Technical bid (Cover-1).
  - i) Full profile with details such as composition/ ownership/shareholding pattern, management structure, details of top management (Board members), key officials.
  - ii) General organizational capability and resources.
  - iii) Tables showing organizational strength including manpower, other resources etc.
  - iv) List of the company's customers during the past 5 years
  - v) Proof/List of similar works at hand and the works carried out during the last 5 years.
  - vi) Proof of financial strength for the last three years. Attach Annual reports and audited financial statements for the last three years.

- vii) Any other proof/document considered relevant in the context of the proposed assignment.
- viii) The works are required to be completed within stipulated period from the date of work order, as per the terms of the contract conditions.

If the bid is by a consortium of firms, lead partner/firm should be specified and requisite information/documents as above should be given in respect of each consortium partner. Nature of association among partners should also detailed out. Acceptable evidence of formation of the consortium should be furnished.

3.3 The bid shall be evaluated as per the evaluation criteria indicated in instructions to bidders (Part-II)-Data sheet of the bid.

4. The works are required to be completed within stipulated period of 56 months from the date of issue of work order, as per the terms of the contract conditions.
5. The tender document can be purchased during working hrs between 1000hrs to 1800 hrs on working days from 10-01-09 to 09-02-09 from the office of the **Chief Engineer, IWAI, A-13, Sector-1, NOIDA, Pin-201 301 (U.P)** by paying Rs 10000/- (Ten thousand only) in the form of DD in favour of "IWAI KALADAN FUND" payable at NOIDA / DELHI at any nationalized/ schedule bank.  
The tender document can also be downloaded from IWAI website at [www.iwai.nic.in](http://www.iwai.nic.in) The cost of tender document as mentioned above should be submitted in the form of Demand Draft in favour of "IWAI KALADAN FUND" payable at Noida / New Delhi at any nationalized/ schedule bank along with bids in case the tender is downloaded from website. Bid without tender cost will be rejected. A signed declaration stating that no alteration has been made in any form in the downloaded tender document is to be enclosed with the tender by the bidder for downloaded tenders. A pre bid meeting in this regard will be held at 1100 hrs. on 22-01-09 (Minutes of the pre-bid meeting will be the part of the tender document).
6. Tender duly complete in all respect shall be submitted before 1500 hrs. on 10-02-09 in the office of Chief Engineer, IWAI , A-13 , Sector 1 , Noida - 201301 and shall be opened on 10-02-09 at 1600 hrs. in the presence of bidder, whoever is present.
7. In case the above scheduled dates are declared public holidays the tenders will be received and opened at the same time on next working day.
8. The tender shall be accompanied by the appropriate Earnest Money of Rs. 5 Lakhs as mentioned in the tender through Crossed Demand Draft drawn in favour of "IWAI KALADAN FUND" payable at NOIDA/ DELHI. The Earnest Money by cheque or in the form of Bank Guarantee will not be accepted. Tender(s) not accompanied by Earnest Money as mentioned above will not be considered.
9. The tenderer shall submit the tender which satisfies each and every condition laid down in this notice and tender documents, failing which, the tender will be liable to be rejected.

10. The **Inland Waterways Authority of India** reserves the right to cancel the tender or reject the bid of any tenderers without assigning any reason.
11. This notice of tender shall form part of the Contract documents.

**CHIEF ENGINEER  
IWAI  
NOIDA (UP)**

DATE: \_\_\_\_\_

## **Section 2**

### **Instructions to Consultants**

#### **Part I**

#### **Standard**

#### **1. Definitions**

- (a) “Employer” means the Ministry / department who have invited the bids for consultancy services and with which the selected Consultant signs the Contract for the Services and to which the selected consultant shall provide services as per the terms and conditions and TOR of the contract.
- (b) “Consultant” means any entity or person or associations of person who have been shortlisted to submit their proposals that may provide or provides the Services to the Employer under the Contract.
- (c) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is the General Conditions (GC), the project Specific Conditions (SC), and the Appendices.
- (d) “Project specific information” means such part of the Instructions to Consultants used to reflect specific project and assignment conditions.
- (e) “Day” means calendar day.
- (f) “Government” means the government of India
- (g) “Instructions to Consultants” (Section 2 of the RFP) means the document which provides short-listed Consultants with all information needed to prepare their proposals.
- (i) “LOI” (Section 1 of the RFP) means the Letter of Invitation being sent by the Employer to the short-listed consultants.
- (j) “Personnel” means professionals 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 professionals and support staff who at the time of being so provided had their domicile outside the Government’s country; “Domestic Personnel” means such professionals and support staff who at the time of being so provided had their domicile in India.
- (k) “Proposal” means the Technical Proposal and the Financial Proposal.
- (l) “RFP” means the Request For Proposal prepared by the Employer for the selection of Consultants, based on the SRFP.
- (m) “SRFP” means the Standard Request for Proposals, which must be used by the Employer as a guide for the preparation of the RFP.
- (n) “Assignment / job” means the work to be performed by the Consultant pursuant to the Contract.
- (o) “Sub-Consultant” means any person or entity with whom the Consultant subcontracts any part of the Assignment/job.
- (p) “Terms of Reference” (TOR) means the document included in the RFP as Section 5 which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Employer and the Consultant, and expected results and deliverables of the Assignment/job.

## **2. Introduction**

2.1 The Employer named in the Part II Data Sheet will select a consulting firm/organization (the Consultant) from those to whom the LOI has been addressed, in accordance with the method of selection specified in the Part II Data Sheet.

2.2 The name of the assignment/Job has been mentioned in Part II Data Sheet. Detailed scope of the assignment/ job has been described in the Terms of Reference in Section 5.

2.3 The date, time and address for submission of the proposals has been given in Part II Data Sheet.

2.4 The short-listed Consultants are invited to submit their Proposal, for consulting Assignment/job named in the Part II Data Sheet. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.

2.5 Consultants should familiarize themselves with Local conditions and take them into account in preparing their Proposals. To obtain first-hand information on the Assignment/job and Local conditions, Consultants are encouraged to meet the Employer's representative named in part II Data Sheet before submitting a proposal and to attend a **pre-proposal meeting** if one is specified in the Part II Data Sheet. Attending the pre-proposal meeting is optional. Consultants should contact the Employer's representative to arrange for their visit or to obtain additional information on the pre-proposal meeting. Consultants should ensure that these representatives are advised of the visit in adequate time to allow them to make appropriate arrangements.

2.6 The Employer will provide at no cost to the Consultants the inputs and facilities specified in the Part II Data Sheet, assist the consultants in obtaining licenses and permits needed to carry out the Assignment/job, and make available relevant project data and reports.

2.7 Consultants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The Employer 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.

## **3. Eligibility of Association of consultants and Sub-Consultants**

3.1 If the consultant had formed an association of consultants, each member of the association of consultant shall be evaluated as per the qualification/ eligibility criteria set forth in Part II data Sheet. The combined score of the each member of the association of consultant shall be taken into account for evaluation purpose. If any member of the association of consultants is dropped at the RFP stage, such a association of consultant is liable to be rejected by the Employer. However, the Employer, at its sole discretion, may decide to evaluate for short-listing such association of consultant without considering the strength of the dropped member and if found eligible, may allow such association of consultant to submit their proposal.

3.2 .The short listed consultants are not allowed to be associated with other short listed consultants .A short-listed consultant may however associate with consultants and /or individual expert at the time of submission of proposal with Under such circumstances each member of the association of consultant shall be evaluated as per the qualification/ eligibility criteria set forth in Part II data Sheet. The combined score of the each member of the association of consultant shall be taken into account for evaluation purpose. However, the lead member of the association of the consultant shall be the consultant who has been short-listed by the Employer and employer shall deal with only the lead member for the purpose of this assignment. Although the contract shall

be signed by all the members of the associations of the consultants, the lead member of the association of the consultant shall be responsible and liable to the Employer for every aspects of their proposal, contract etc.

#### **4. Clarification and Amendment of RFP Documents**

4.1 Consultants may request a clarification on any clause of the RFP documents up to the number of days indicated in the Part II Data Sheet before the proposal submission date. Any request for clarification must be sent in writing, or by standard electronics means to the Employer's address indicated in the Part II Data Sheet. The Employer will respond in writing or by standard electronic means and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Consultants. Should the Employer deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure under para. 4.2 below.

4.2 At any time before the submission of Proposals, the Employer may amend the RFP by issuing an addendum in writing or by standard electronic means. The addendum shall be sent to all Consultants and will be binding on them. Consultants shall acknowledge receipt of all amendments. To give Consultants reasonable time in which to take an amendment into account in their Proposals the Employer may, if the amendment is substantial, extend the deadline for the submission of Proposals.

#### **5. Conflict of Interest**

5.1 Employer requires that Consultants provide professional, objective, and impartial advice and at all times hold the Employer's interests paramount, strictly avoid conflicts with other Assignment/jobs or their own corporate interests and act without any consideration for future work.

5.2 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:

**Conflicting activities:** (i) A firm that has been engaged by the Employer to provide goods, works or Assignment/job other than consulting Assignment/job for a project, and any of its affiliates, shall be disqualified from providing consulting Assignment/job related to those goods, works or Assignment/job. Conversely, a firm hired to provide consulting Assignment/job for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or Assignment/job other than consulting Assignment/job resulting from or directly related to the firm's consulting Assignment/job for such preparation or implementation. For the purpose of this paragraph, Assignment/job other than consulting Assignment/job are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.

**Conflicting Assignment/job;** (ii) A Consultant (including its Personnel and Sub- Consultants) or any of its affiliates shall not be hired for any Assignment/job that, by its nature, may be in

conflict with another Assignment/job of the Consultant to be executed for the same or for another Employer. 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 Employer in the privatization of public assets shall not purchase, nor advise purchasers of, such assets.

**Conflicting relationships** (iii) A Consultant (including its Personnel and Sub-Consultants) that has a business or family relationship with a member of the Employer's staff who is directly or indirectly involved in any part of (i) the preparation of the Terms of Reference of the Assignment/job, (ii) the selection process for such Assignment/job, or (iii) 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 Employer throughout the selection process and the execution of the Contract.

5.3 Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Employer, or that may reasonably be perceived as having this effect. Any such disclosure shall be made as per the Standard forms of technical proposal provided herewith. If the consultant fails to disclose said situations and if the Employer comes to know about any such situation at any time, it may lead to the disqualification of the Consultant during bidding process or the termination of its Contract during execution of assignment.

5.4 No agency or current employees of the Employer shall work as Consultants under their own ministries, departments or agencies.

## **6. Unfair Advantage**

6.1 If a short-listed Consultant could derive a competitive advantage from having provided consulting Assignment/job related to the Assignment/job in question and which is not defined as conflict of interest as per para 5 above, the Employer shall make available to all short-listed Consultants together with this RFP all information that would in that respect give such Consultant any competitive advantage over competing Consultants.

## **7. Proposal**

7.1 Short-listed Consultants 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, to more than one proposal.

## **8. Proposal Validity**

8.1 The Part II Data Sheet to consultant indicates how long Consultants' Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of Professional staff nominated in the Proposal and also the financial proposal unchanged. The Employer will make its best effort to complete negotiations within this period. Should the need arise, however, the Employer may request Consultants to extend the validity period of their

proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal and their financial proposal remain unchanged, or in their confirmation of extension of validity of the Proposal, Consultants could submit new staff in replacement, who would 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, under such circumstance the Employer shall not consider such proposal for further evaluation.

## 9. Preparation of Proposals

9.1 The Proposal as well as all related correspondence exchanged by the Consultants and the Employer, shall be written in English language, unless specified otherwise.

9.2 In preparing their Proposal, 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.

9.3 While preparing the Technical Proposal, Consultants must give particular attention to the following:

(a) If a short-listed Consultant considers that it may enhance its expertise for the Assignment/job by associating with other Consultants in sub-consultancy, it may associate with a non-short-listed Consultant.

(b) The estimated number of Professional staff-months for the Assignment/job is as shown in the Part II Data sheet. However, the Proposal shall be based on the number of Professional staff-months or budget estimated by the Consultants. While making the proposal, the consultant must ensure that he proposes the minimum number and type of experts as sought by the Employer, failing which the proposal shall be considered as non-responsive.

(c) Alternative professional staff shall not be proposed, and only one curriculum vita (CV) may be submitted for each position mentioned.

9.4 Depending on the nature of the Assignment/job, Consultants are required to submit a Technical Proposal (TP) in forms provided in Section-III. The Part II Data sheet in Section-II indicates the formats 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 paras from (a) to (f) using the attached Standard Forms (Section 3). Form Tech – I in Section-III is a sample letter of technical proposal which is to be submitted along with the technical proposal.

(a) (i) A brief description of the consultant's organization and in the case of a consortium/ joint venture, of each partner, will be provided in Form Tech-2. In the same Form, the consultant and in the case of a consortium/ joint venture, each partner will provide details of experience of assignments which are similar to the proposed assignment/ job as per the terms of reference.. For each Assignment/job, the outline should indicate the names of Sub-Consultants/ Professional staff who participated, duration of the Assignment/job, contract amount, and Consultant's involvement. Information should be provided only for those Assignment/jobs for which the Consultant was legally contracted by the Employer as a corporation or as one of the major firms within a joint venture. Assignment/jobs completed by individual Professional staff working privately or through other consulting firms cannot be claimed as the experience of the Consultant, or that of the Consultant's associates, but can be claimed by the Professional staff

themselves in their CVs. Consultants should be prepared to substantiate the claimed experience along with the proposal and must submit letter of award / copy of contract for all the assignments mentioned in the proposal.

(b) (i) Comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the Assignment/job; and on requirements for counterpart staff and facilities including: administrative support, office space, Domestic transportation, equipment, data, etc. to be provided by the Employer (Form TECH-3 of Section 3).

(c) (i) A description of the approach, methodology and work plan for performing the Assignment/job 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 of Section 3. The work plan should be consistent with the Work Schedule (Form TECH-8 of Section 3) which will show in the form of a bar chart the timing proposed for each activity.

(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 is to be provided in Form TECH-5 of Section 3.

(e) Estimates of the staff input needed to carry out the Assignment/job needs to be given in Form TECH-7 of Section 3. The staff-months input should be indicated separately for each location where the Consultants have to work and / or provide their key staff.

(f) CVs of the Professional staff as mentioned in para 9.4 (d) above signed by the staff themselves or by the authorized representative of the Professional Staff (Form TECH-6 of Section 3).

9.5 The Technical Proposal shall not include any financial information. A Technical Proposal containing financial information may be declared non responsive.

9.6 **Financial Proposals:** The Financial Proposal shall be prepared using the attached Standard Forms (Section 4). It shall list all costs associated with the Assignment/job, including (a) remuneration for staff and (b) reimbursable expenses indicated in the Part II Data sheet. If appropriate, these costs should be broken down by activity and, if appropriate, into foreign (if applicable) and domestic expenditures. The price quoted shall include all the costs for carrying out all the works of Activity-1 & Activity-2 in Clause -10 of Special Conditions of contract including cost of surveys / investigations to be paid to any specialized agency. No additional payment will be made by the Authority (IWAI). The financial proposal shall not include any conditions attached to it and any such conditional financial proposal shall be rejected summarily.

## 10. Taxes

10.1 The Consultant shall fully familiarize themselves about the applicable to Domestic taxes (such as: value added or sales tax, service tax or income taxes, duties, fees, levies) on amounts payable by the Employer under the Contract. All such taxes must be included by the consultant in the financial proposal. The Consultant is not required to form a corporate entity registered in Myanmar and shall not be liable to pay corporate tax in Myanmar. However the Consultants may get this aspect clarified through their own sources in Govt. of India or Govt. of Myanmar.

## **11. Currency**

11.1 Consultants shall express the price of their Assignment/job in Indian in Rupees.

## **12 Earnest Money Deposit (EMD) and Bid processing Fees**

### **12.1 Earnest Money Deposit**

- I. An EMD of Rs. 5.00 lakhs, in the form of DD drawn in favor of the “IWAI Kaladan Fund” payable at New Delhi / Noida, must be submitted along with the Proposal.
- II. Proposals not accompanied by EMD shall be rejected as non-responsive.
- III. No interest shall be payable by the Employer for the sum deposited as earnest money deposit.
- IV. No bank guarantee will be accepted in lieu of the earnest money deposit.
- V. The EMD of the unsuccessful bidders would be returned back within one month of signing of the contract.

12.2 The EMD shall be forfeited by the Employer in the following events:

- I. If Proposal is withdrawn during the validity period or any extension agreed by the consultant thereof.
- II. If the Proposal is varied or modified in a manner not acceptable to the Employer after opening of Proposal during the validity period or any extension thereof.
- III. If the consultant tries to influence the evaluation process.
- IV. If the First ranked consultant withdraws his proposal during negotiations (failure to arrive at consensus by both the parties shall not be construed as withdrawal of proposal by the consultant).

### **13. Bid Processing Fees**

All consultants are required to pay Rs.10, 000/- towards Bid Processing Fees in the form of demand Draft drawn in favor of Employer (IWAI Kaladan Fund) and payable at Noida / New Delhi. The Bid Processing Fee is Non-Refundable.

**Please note that the Proposal, which does not include the bid processing fees, would be rejected as non-responsive.**

## **14. Submission, Receipt, and Opening of Proposal**

14.1 The original proposal, both technical and Financial Proposals shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person who signed the proposal must initial such corrections. Submission letters for both Technical and Financial Proposals should respectively be in the format of TECH-1 of Section 3, and FIN-1 of Section 4.

14.2 An authorized representative of the Consultants shall initial all pages of the original Technical and Financial Proposals. The authorization shall be in the form of a written power of attorney accompanying the Proposal or in any other form demonstrating that the representative

has been dully authorized to sign. The signed Technical and Financial Proposals shall be marked "ORIGINAL".

14.3 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "TECHNICAL PROPOSAL" Similarly, the original Financial Proposal shall be placed in a sealed envelope clearly marked "FINANCIAL PROPOSAL" followed by the name of the Assignment/job. The envelopes containing the Technical Proposals, Financial Proposals, EMD and bid processing fees shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address, reference number be clearly marked "DO NOT OPEN, BEFORE 1600 hrs. on 10.02.2009. The Employer shall not be responsible for misplacement, losing or premature opening if the outer envelope is not sealed and/or marked as stipulated. This circumstance may be case for Proposal rejection. **If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive.**

14.4 The Proposals must be sent to the address/addresses indicated in the Data sheet and received by the Employer no later than the time and the date indicated in the Data sheet, or any extension to this date in accordance with para 4.2 above. Any proposal received by the Employer after the deadline for submission shall be returned unopened.

## **15. Proposal Evaluation**

15.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultants should not contact the Employer on any matter related to its Technical and/or Financial Proposal. Any effort by Consultants to influence the Employer in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the Consultants' Proposal.

15.2 The employer has constituted a Consultant Selection Committee (CSC) which will carry out the entire evaluation process. The Employer may add to the CSC one or two finance experts for the evaluation of the financial proposals and overall evaluation.

### **15.3 Evaluation of Technical Proposals:**

CSC while evaluating the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded and the competent authority accepts the recommendation.

15.4 The CSC shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and by applying the evaluation criteria, sub-criteria specified in the Data sheet. In the first stage of evaluation, a Proposal shall be rejected if it is found deficient as per the requirement indicated in the Data sheet for responsiveness of the proposal. Only responsive proposals shall be further taken up for evaluation. Evaluation of the technical proposal will start first and at this stage the financial bid (proposal) will remain **unopened**. The qualification of the consultant and the evaluation criteria for the technical proposal shall be as defined in the Data sheet.

### **15.5 Public opening & evaluation of the Financial Proposals:**

Financial proposals of only those firms who are technically qualified shall be opened publicly on the date & time specified the Data sheet, in the presence of the Consultants' representatives who choose to attend. The name of the Consultants, their technical score (if required) and their financial proposal shall be read aloud.

15.6 The CSC will correct any computational errors. When correcting computational errors, in case of discrepancy between a partial amount and the total amount, or between word and figures, the former will prevail. In addition to the above corrections the 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, (i) 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, (ii) if the Lump-Sum form of contract has been included in the RFP, no corrections are applied to the Financial Proposal in this respect.

15.7 After opening of financial proposals, the selection method indicated in Para-15 of Data sheet shall be applied to determine the consultant who will be declared winner and be eligible for award of the contract.

This selected consultant will then be invited for negotiations, if considered necessary.

## **16. Negotiations**

16.1 Negotiations will be held at the date, time and address intimated to the qualified and selected bidder. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm availability of all Professional staff. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude a Contract.

16.2 Technical negotiations: Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, and organization and staffing, and any suggestions made by the Consultant to improve the Terms of Reference. The Employer and the Consultants will finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as "Description of Assignment/job". Special attention will be paid to clearly defining the inputs and facilities required from the Employer to ensure satisfactory implementation of the Assignment/job. The Employer shall prepare minutes of negotiations which will be signed by the Employer and the Consultant.

16.3 Financial negotiations: After the technical negotiations are over, financial negotiations should be carried out in order to reflect any change in financials due to change in scope of work or due to clarification on any aspect of the technical proposal during the technical negotiations. Under no circumstance, the financial negotiation shall result in to increase in the price originally

quoted by the consultant. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates. For other methods, Consultants will provide the Employer with the information on remuneration rates described in the Appendix attached to Section 4 - Financial Proposal - Standard Forms of this RFP.

16.4 Availability of Professional staff/experts: Having selected the Consultant on the basis of, among other things, an evaluation of proposed Professional staff, the Employer expects to negotiate a Contract on the basis of the Professional staff named in the Proposal. Before contract negotiations, the Employer will require assurances that the Professional staff will be actually available. The Employer will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity or if the professional staff has left the organization. If this is not the case and if it is established that Professional staff were offered in the proposal without confirming their availability, the Consultant may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate and be submitted by the Consultant within the period of time specified in the letter of invitation to negotiate.

16.5 Conclusion of the negotiations: Negotiations will conclude with a review of the draft Contract. To complete negotiations the Employer and the Consultant will initial the agreed Contract. If negotiations fail, the employer will reject all the proposals received and invite fresh proposals.

## **17. Award of Contract**

17.1 After completing negotiations the Employer shall issue a Letter of Intent to the selected Consultant and promptly notify all other Consultants who have submitted proposals about the decision taken.

17.2 The consultants will sign the contract after fulfilling all the formalities/pre-conditions mentioned in the standard form of contract in Section-6, within 15 days of issuance of the letter of intent.

17.2 The Consultant is expected to commence the Assignment/job on the date and at the location specified in the Part II Data Sheet.

## **18. Confidentiality**

Information relating to evaluation of Proposals and recommendations concerning awards shall not be disclosed to the Consultants who submitted the Proposals or to other persons not officially concerned with the process, until the publication of the award of Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal and may be subject to the provisions of the Employer's antifraud and corruption policy.

## INSTRUCTIONS TO CONSULTANT

### Part-II

### DATA SHEET

Sl. No.	Ref of ITC	Particulars of Data Sheet
1.	1(a)	Employer means: Inland Waterways Authority of India A-13, Sector-1, NOIDA. (U.P-201301)
2.	2.2	Name of the Assignment/job is: Project Management Consultancy services for execution of Kaladan Multimodal Transit Transport Project in Myanmar.
3.	2.5	A pre-proposal meeting will be held : Yes on 22.01.2009 at 11:00hrs.  No field visit shall be arranged by the employer However if the bidders propose to have a site visit for preparation of bid at their own cost; IWAI shall arrange necessary permission for the same on receipt of request in this regard.
4.	14.4	Date & time and address for submission of proposal/ bid: Date : 10.02.2009 Time : 1500 hrs. Address: Chief Engineer, IWAI A-13, Sector-1, NOIDA (UP-201301)
5.	2.5	The Employer's representative is: Chief Engineer, Address: Inland Waterway Authority of India, A-13, Sector-1, NOIDA (UP)-201301 Telephone: 0120 - 2521664 Facsimile: 0120 - 2544041 Website:- iwai.nic.in E-mail :- iwainoi@nic.in
6.	2.6	The Employer will provide the following inputs and facilities:  1. Entry / Exit permits to Consultant's staff to / from Myanmar. 2. Detailed project Reports prepared by Rites (2003) 3. Revised cost estimate (2006) 4. Hydrographic survey map – river Kaladan 5. Tender documents
7.		The Employer envisages the need for continuity for downstream work: No
8.	8.1	Proposals must remain valid for 90 days after the submission date, i.e. until: 11.05.2009
9.	4.1	Clarifications may be sought only up to the date of pre – bid meeting i.e. 22.01.2009 up to 11:00hrs.
10.		The consultant shall familiarize themselves about the applicable to domestic taxes and Myanmar taxes.

The address for requesting clarifications is: Chief Engineer,  
 IWAI, A-13, Sector-1, Noida (UP) -201301.  
 Facsimile: 0120 – 2544041  
 Website: iwai.nic.in  
 E-mail: iwainoi @ nic.in

11. 9.3 (b) The estimated number of professional staff-months required for the Assignment/job is: Enclosed as Annexure: ‘D’
12. 9.4 The formats of the Technical Proposal to be submitted are:  
 Form Tech 1: Letter of Proposal submission  
 Form Tech 2: Consultant’s organization & experience  
 Form Tech 3: Comments & suggestions on TOR  
 Form Tech 4: Approach & methodology  
 Form Tech 5: Team composition  
 Form Tech 6: Curriculum vitae  
 Form Tech 7: Staffing Schedule  
 Form Tech 8: Work Schedule  
 Form Tech 9: Comment / modification suggested on draft contract.  
 Form Tech 10: Information regarding any conflicting activities and declaration thereof.
13. 11.1 Consultant to state the cost in Indian Rupees:
14. 14.3 Consultant must submit the original and 3 copies of the Technical Proposal, and the original of the Financial Proposal.
15. 15.4 Evaluation Criteria: sub-criteria, for evaluation of Technical Proposals
- (a) “Each Key Personnel must score a minimum of 70 % marks. A Proposal shall be rejected if the proposed Team Leader scores less than 70 % marks, he would have to be replaced during negotiations, with a better candidate who, in the opinion of the Employer would score 70 % or above.
- (b) The criteria and sub-criteria to be used for evaluation shall be as follows:

Item Code	Criteria and Sub-Criteria	Marks	Sub-division of Marks
1	Firm’s Relevant Experience	15	50 % of the maximum marks shall be awarded for similar assignments undertaken by the Consultant firm. The remaining 50% shall be awarded for other relevant experience.
2	Proposed methodology and Work Plan in response to the TOR Sub-criteria	15	Evaluation will be based on the quality of submissions.
3	Relevant 3 Key	70	50% of the maximum marks for each Key

	Professional Staff (Level 1 only)		Professional Staff shall be awarded for the number of similar assignments the respective Key Professional Staff has worked on. The remaining 50% shall be awarded for other relevant experience.
3a	Team Leader and Key Professional		As above
3b	2. Key Professional		As above
3c	3. Key Professional		As above

- (c) Selection of Consultants on the basis of evaluation of Technical Proposals:  
Consultants whose Technical Proposals secure 70 points or more shall be short-listed for evaluation of their Financial Proposals. However, if the number of such pre-qualified consultants is less than two, the Employer may, in its sole discretion, pre-qualify the consultant whose technical score more than 60 points provided that in such an event, the total number of pre-qualified and short listed consultant shall not exceed two.

16. 15.7 Method of Selection:

(a) Each Financial Proposal shall be assigned a financial score (SF).

For financial evaluation, the total cost indicated in the Financial Proposal shall be considered.

(b) The Evaluation Committee shall determine whether the Financial Proposals are complete, unqualified and un-conditional. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the firm to be compensated and the liability to fulfill its obligations as per the TOR within the total quoted price shall be that of the Consultant. The lowest financial proposal will be given a financial score (SF) of 100 points. The financial score of other financial proposals will be computed as follows:

$$(S_F) = 100 \times (F_M)/F$$

(F = amount of Financial Proposal)

Proposals will finally be ranked according to their combined technical (ST) and financial score (SF) as follows:

$$S = (S_T) \times T_W + (S_F) \times F_W$$

Where, TW and FW are weights assigned to technical and financial proposal that shall be 0.8 and 0.2 respectively.

Generally, the successful Consultant shall be the Consultant having the highest combined score. The second highest consultant shall be kept in reserve and may be invited for negotiations in case the first-ranked Consultant withdraws or is not selected for any reason.

17. 17.2 Expected date for commencement of consulting Assignment/job at: 12.03.09 at NOIDA.

18. 17.2 Location for performance assignment / job:  
India: NOIDA / New Delhi  
Myanmar: i) Along river Kaladan between Sittwe and Kaletwa  
ii) Between Kaletwa and Indo-Myanmar border in Mizoram.

## **Section 3**

### **Technical Proposal - Standard Forms**

FORM TECH-1

**LETTER OF PROPOSAL SUBMISSION**

To

Dear Sirs:

We, the undersigned, offer to provide the Project Management Consultancy Assignment/job for Kaladan Multi Modal Transit Transport Project in Myanmar 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 under a separate envelope and requisite EMD and bid processing fees. We are submitting our Proposal in association with: [Insert a list with full name and address of each associated Consultant]

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

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in Paragraph 8 of the Part II 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 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:

## CONSULTANT'S ORGANIZATION AND EXPERIENCE

### A - Consultant's Organization

[Provide here a brief description of the background and organization of your firm/entity and each associate for this Assignment/job. The brief description should include ownership details, date and place of incorporation of the firm, objectives of the firm etc. Also if the consultant has formed a consortium, details of each of the member of the consortium, name of lead members etc shall be provided]

### B - Consultant's Experience

[Using the format below, provide information on each Assignment/job for which your firm, and each partner in the case of consortium or joint venture, was legally contracted either individually as a corporate entity or as one of the major partners within an association, for carrying out consulting Assignment/job similar to the ones requested under this Assignment/job (If possible, the employer shall specify exact assignment / job for which experience details may be submitted). In case of consortium, association of consultant, the consultant must furnish the following information for each of the consortium member separately]

1. Firm's name:

Assignment/job name:

1.1

Description of Project

1.2

Approx. value of the contract (in Rupees):

1.3

Country:

1.4

Location within country:

1.5

Duration of Assignment/job (months) :

1.6

Name of Employer:

1.7

Address:

1.8

Total No of staff-months of the Assignment/job:

1.9

Approx. value of the Assignment/job provided by your

firm under the contract (in Rupees):

1.10

Start date (month/year):

1.11

Completion date (month/year):

1.12

Name of associated Consultants, if any:

1.13

No of professional staff-months provided by associated Consultants:

1.14

Name of senior professional staff of your firm involved and functions performed.

1.15

Description of actual Assignment/job provided by your staff within the Assignment/job:

Note: Please provide documentary evidence from the client i.e copy of work order, contract for each of above mentioned assignment. The experience shall not be considered for evaluation if such requisite support documents are not provided with the proposal.

**FORM TECH-3****COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE AND ON COUNTERPART STAFF AND FACILITIES TO BE PROVIDED BY THE EMPLOYER****A - On the Terms of Reference**

[Suggest and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the Assignment/job (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal.]

**B - On Inputs and Facilities to be provided by the employer**

[Comment here on Inputs and facilities to be provided by the Employer according to Paragraph 6 of the Part II of the data sheet including: administrative support, office space, Domestic transportation, equipment, data, etc.]

**FORM TECH-4****DESCRIPTION OF APPROACH, METHODOLOGY AND  
WORK PLAN FOR PERFORMING THE  
ASSIGNMENT/JOB**

[Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal divided into the following three chapters:

- a) Technical Approach and Methodology,
- b) Work Plan, and
- c) Organization and Staffing,

a) Technical Approach and Methodology. In this chapter you should explain your understanding of the objectives of the Assignment/job, approach to the Assignment/job, 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.

b) Work Plan. The consultant should **propose and justify** the main activities of the Assignment/job, their content and duration, phasing and interrelations, milestones (including interim approvals by the Employer), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work Schedule of Form TECH-8.

c) Organization and Staffing. The consultant should **propose and justify** the structure and composition of your team. You should list the main disciplines of the Assignment/job, the key expert responsible, and proposed technical and support staff.]

**FORM TECH-5**

**TEAM COMPOSITION AND TASK ASSIGNMENT/JOBS**

Professional Staff

Sr. No. Name of  
Staff  
Name of  
Firm  
Area of  
Expertise  
Position / Task assigned for  
this job

**FORM TECH-6****CURRICULUM VITAE (CV) FOR PROPOSED  
PROFESSIONAL STAFF**

## 1. Proposed Position:

[For each position of key professional separate form Tech-6 will be prepared]:

## 2. Name of Firm:

[Insert name of firm proposing the staff]:

## 3. Name of Staff:

[Insert full name]:

## 4. Date of Birth:

## 5. Nationality:

## 6. Education:

[Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]:

## 7. Membership of Professional Associations:

## 8. Other Training:

## 9. Countries of Work Experience:

[List countries where staff has worked in the last ten years]:

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

## 11. Employment Record:

[Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]:

From [Year]: To Year]:

Employer:

Positions held:

## 12. Detailed Tasks Assigned

[List all tasks to be performed under this Assignment/job]

## 13. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned [Among the Assignment/jobs in which the staff has been involved, indicate the following information for those Assignment/jobs that best illustrate staff capability to handle the tasks listed under point 12.]

Name of Assignment/job or project:

Year:

Location:

Employer:

Main project features:

Positions held:

Activities performed:

## 14. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes my self, my qualifications, and my experience. I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged. "I confirm that I have understood the Terms of Reference and the period and time required of me for the successful completion of the assignment; and that I shall be available for required period and time of the assignment."

Date:  
Place:

[Signature of staff member or authorized  
representative of the staff]  
[Full name of authorized representative]:

**FORM TECH-7****STAFFING SCHEDULE**

S.No. Name of Staff Staff input (in the form of a bar chart) Total Months  
1 2 3 4 5 6 7 8 9 10 11 12

- 1.
- 2.
- 3.

Note:

1 For Professional Staff the input should be indicated individually; for Support Staff it should be indicated by category (e.g.: draftsmen, clerical staff, etc.).

2 Months are counted from the start of the Assignment/job. For each staff indicate separately staff input for home and field work.

**FORM TECH-8****WORK SCHEDULE**

S.No. Activity Months Total Months  
1 2 3 4 5 6 7 8 9 10 11 12

- 1.
- 2.
- 3.
- 4.

1 Indicate all main activities of the Assignment/job, including delivery of reports (e.g.: inception, interim, draft and final reports), and other benchmarks such as Employer approvals. For phased Assignment/jobs indicate activities, delivery of reports, and benchmarks separately for each phase.

2 Duration of activities shall be indicated in the form of a bar chart.

**FORM TECH-9****COMMENTS / MODIFICATIONS SUGGESTED ON  
DRAFT CONTRACT**

[Here the consultant shall mention any suggestion / views on the draft contract attached with the RFP document. The consultant may also mention here any modifications sought by him in the provisions of the draft contract. This information shall be used at the time of the negotiations. However, the Employer is not bound to accept any/all modifications sought and may reject any such request of modification.]

**FORM TECH-10**

**INFORMATION REGARDING ANY CONFLICTING ACTIVITIES AND DECLARATION  
THERE OF**

Are there any activities carried out by your firm or group company or any member of the consortium which are of conflicting nature as mentioned in para 5 of section 2. If yes, please furnish details of any such activities.

If no, please certify,

We hereby declare that our firm, our associate / group firm or any of the member of the consortium are not indulged in any such activities which can be termed as the conflicting activities under para 5 of the section 2. We also acknowledge that in case of misrepresentation of the information, our proposals / contract shall be rejected / terminated by the Employer which shall be binding on us.

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

## **Section 4.**

### **Financial Proposal - Standard Forms**

**FORM FIN-1**

**REVISED FINANCIAL PROPOSAL SUBMISSION FORM**

To:

Dear Sirs:

We, the undersigned, offer to provide the consulting Assignment/job for [Insert title of Assignment/job] in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal. Our attached Financial Proposal is for the sum of [Insert amount(s) in words and figures1]. This amount is inclusive of the Domestic taxes. We hereby confirm that the financial proposal is unconditional and we acknowledge that any condition attached to financial proposal shall result in reject of our financial proposal. 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 Paragraph 8 of the Part II Data Sheet

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 FIN-2****SUMMARY OF COSTS**

<b>S.No</b>	<b>Particulars</b>	<b>Amount in Rupees</b>	<b>Amount in words</b>
1	Remuneration		
2	Travel Expenses		
3	Miscellaneous expenses		
2	Service Tax / Any other tax		
3	Total		

Breakup of the total cost in terms of Project work components only for the purpose of levying Liquidated Damages (LD) as per the provisions of clause-9 of General conditions of contract on page no. 93 of RFP.

1. Sea dredging at Sittwe port : Rs.....
2. Fairway dredging & allied works in River Kaladan : Rs.....
3. Port / IWT terminal at Sittwe : Rs.....
4. IWT terminal at Kaletwa : Rs.....
5. Vessels : Rs.....
6. Highway (62 km) between Kaletwa and Indo-Myanmar border in Mizoram : Rs.....

Authorized Signature

Name: .....

Designation .....

Name of firm:

Address:

## Section 5

### Terms of Reference

# TERMS OF REFERENCE

## Part I

### Objective and Scope of Work

#### 1. Background

(i) Government of India and the Government of Myanmar have entered into an Agreement for construction and operation of a multimodal transit transport facility in Myanmar. The project area is located entirely in Myanmar and the various components of the Project are:

- Construction of a port/Inland Water Transport (IWT) terminal and related infrastructure facilities at the port of Sittwe in Myanmar for trans-shipment from ships to inland vessels and vice versa, including development of the navigation channels.
- Development of Kaladan waterway from Sittwe to Kaletwa – about 225 km by undertaking river engineering works such as dredging, removal of rock out-crops/ rapids, navigation aids, etc.
- Construction of an IWT / Highway trans-shipment terminal and related facilities at Kaletwa.
- Construction of 260 ton IWT vessels (10 no.)
- Construction of highway from Kaletwa to India-Myanmar border in Mizoram (62 kms).

(ii) These project components including alignment have been examined vide Detailed Project Reports and accepted by the contracting parties (*India and Myanmar*). No EIA study is required. However, permission from local authorities on account of environmental or any other clearance required under local laws of Myanmar are to be facilitated by the Consultant as per the provisions in Article-5 of the Framework Agreement. The Detailed Project Report estimates the cost of construction of the Project as under:

- Upgradation of Sittwe port and Kaladan waterway: US \$ 68.24 million.
- Construction of a road from Setpyitpyin (Kaletwa) to Indo-Myanmar border: US \$ 49.14 million

(iii) Ministry of External Affairs (MEA), Govt of India is the nodal agency and is funding the project. The Inland Waterways Authority of India is the Project Development Consultant and is responsible for the following in the execution of the project.

- (a) Preparation for selection of the construction contractors for development of various project facilities/components;

- (b) Coordination/liaison between the nodal agencies (MEA on Indian side and Ministry of Foreign Affairs on Myanmar side) and the construction contractors; and
  - (c) Supervision of construction and project management of various works.
- (iv) The Government of India shall appoint the main contractor. If required different sub contractors from both the contracting parties may be appointed for implementing various components of the projects.
- (v) IWAI proposes to outsource the activities (except check (hydrographic) survey and pre & post dredging surveys) to be performed by it as Project Development Consultant to a consulting firm vide this tender.

The consultant has to assist IWAI in technical discussions and project related activities in the various Govt. agencies. The Nodal officers should facilitate the same. The Consultant may have to perform the assignment related activities in the following departments / Ministries at different places.

1. Inland Waterways Authority of India, NOIDA.
2. Ministry of Shipping, Road Transport & Highways.
3. Ministry of External Affairs, New Delhi.
4. Ministry of Finance, New Delhi.
5. Ministry of commerce, New Delhi
6. Planning Commission, Govt. of India.
7. Other Government of India officers.
8. Indian Embassy, Yangon, Myanmar.
9. Govt. of Myanmar, Yangon/Sittwe.

- vi) The assignment is scheduled to be completed by September, 2013.

The Consultant shall be provided a copy of the detailed project report and other technical documents prepared by RITES. The Consultant may use the inputs of the DPR with necessary updation for design and implementation of the project. The Consultant will be provided with entry and exit permits from Myanmar and India in connection with the project.

(2) **Purpose / objective of the assignment:** The objective of the assignment is to implement the Kaladan Multimodal project in Myanmar as per the recommendations of the Detailed Project Report prepared relevant updation wherever necessary and in accordance with the provisions of frame – work agreement between the Govt. of India and Govt. of Myanmar for construction and operation of a Multimodal Transit Transport facility on Kaladan river enclosed as **Annexure – E.**

**(3) Detailed Scope of work / Assignment :** The assignment includes studying the existing DPRs, other documents passed on to the short listed consultants, make field inspection to assess the ground situation in the project area, reconciling existing DPR and other documents with the present ground situation, detailed engineering designs and drawings including construction drawings, preparing specifications, bill of quantities, estimates and tender documents for all the components,(except Highway component for which design, drawings will be provided by Myanmar Govt ) assisting IWAI in evaluation of bids, selection of contractors, contract administration, quality control, construction supervision, computation of quantity executed, certification of bills and project monitoring. An Index map is enclosed as **Annexure –A**. A Brief description of works to be executed is given at **Annexure –B**. Details of specifications and terms of reference for executing the assigned works are enclosed at **Annexure –C**. The above works are to be executed by deploying the minimum number of Technical Manpower / Man months indicated in **Annexure –D**. The works shall be commenced and completed in 56 months from the date of commencement of consulting assignment / job.

**(4) List of Deliverables:**

- (i) Updation of estimate based on Engineering survey / Reconnaissance survey for all the components along with a comparative statement w.r. to the DPR items giving justification for variation in quantity and cost. All supporting documents are to be attached.
- (ii) Detailed design, drawings, working drawings, method of execution, type of equipment to be used, schedule of implementation in a bar chart form for all the project components viz. Sittwe port, Sittwe IWT terminal, Sea dredging, Fairway development between Sittwe and Kaletwa and IWT terminal at Kaletwa.  
The Consultant shall get the detailed design, drawings, working drawings checked by Proof Consultant- a reputed technical expert.
- (iii) Tender document along with BOQ for executing all the project components mentioned in ii) above.
- (iv) NIT and tendering schedule for all the project components.
- (v) Evaluation of bids for selection of contractors for all the project components as per the guidance of IWAI.
- (vi) Construction supervision, Project Management, Maintain site order book and progress register for each project components as per the guidance of IWAI.

- (vii) Monthly progress report (3 copies) of all the project components. It should clearly indicate the work completed for the previous month, work planned for the next month, progress w.r.to original schedule, slippage if any and reasons thereof, corrective measures to overcome the slippage for timely completion of the project as per original schedule.
- (viii) Measurement books in support of bills (standard methods to be followed for each project components as per the guidance of IWAI) raised by the contractors along with certification of bills with due recommendation for effecting payments.
- (ix) Revised implementation programme, if any, for the remaining works (for each project components) before every working season.
- (x) On completion of each project components (or part thereof as per the requirement of IWAI) detailed handing over note in respect of completed projects, completion certificate and hand over the assets to IWAI or any other agency as advised by IWAI. Three copies of the Final Report shall be submitted.



**Annexure –‘B’****BRIEF ON KALADAN MULTIMODAL TRANSIT TRANSPORT  
PROJECT****1. Sittwe Port & IWT Terminal Development**

Port of Sittwe (Akyab) is on the Arakan coast located near the confluence of Kaladan River and Bay of Bengal at Latitude 20<sup>0</sup> 08<sup>1</sup> North and longitude 92<sup>0</sup> 55<sup>1</sup> East. The approach channel to the Sittwe Port has an outer bar and an inner bar with available depths of 7.31 m and 4.88 m respectively.

A lighthouse on Savage Island on the eastern side of the entrance channel is no longer operational but serves as a landmark. An existing signal station at port yard is operational and weather signals are hoisted as per instructions from Yangon. Bad weather season on the Arakan coast is generally between April 1 to 15, early August and October 1 to 15.

**1.1 Details of existing facilities at Sittwe Port**

The existing wharf (jetty) at Sittwe Port was built in 1917. This wharf is a fixed type structure with 6-screw pile, steel superstructure and timber decking. The jetty is 325 feet (99 meters) long and 50 feet (15.2 metres) wide. An approach bridge 24 feet (7.3m) wide and 343 feet (104.5 metres) long connects the wharf and the onshore facilities.

The wharf is designed for a maximum vessel size of 2000 DWT and is used for coastal trade, and passenger transport. Manual loading/ unloading is being carried out at this terminal. The hydrographic survey carried out in the vicinity of the jetty indicates that the available depth is 5.4 metres below chart datum. The structure requires extensive repair/ modification.

Present status of the Port is given in the table 1.1

**1.2 Proposed facilities at Sittwe Port**

The port is planned to accommodate vessel of 6000 DWT capacity in the initial stages. However, in the long run keeping in view of the possible expansion, the port terminal is planned for a ship size of 20,000 DWT.

Considering the anticipated annual throughput of 100,000 tonnes for the port terminal and 60,000 to 75,000 tonnes for the IWT terminal, the jetties and other facilities are planned accordingly.

Open type berthing structure ( ie RCC piled berth and approaches) is proposed at both Sittwe port and IWT terminal. Keeping in view of the dimension of the future vessel size of 20,000 DWT, the length of the port jetty proposed is 219 m with an apron width of 15.2 m, suitable for installation of a rail mounted level luffing crane for handling general cargo.

The IWT jetty is planned for accommodating the design vessel of 260 DWT for which the length of IWT jetty proposed is 54 m with an apron width of 15.2 m

One mobile rail mounted general cargo crane of 10 Tonnes capacity with a maximum outreach of 25.5 m with hook attachment is proposed at the Sittwe port for cargo handling operation. Similarly, a mobile tyre mounted crane of 25 tonnes and rated capacity with maximum outreach of 12 m with outriggers is proposed at the IWT terminal.

The facilities proposed at the Port terminal back-up area are the following:

- Two covered transit storage sheds of 24 m x 36 m with suitable partitions for food grains, fertilizer and other agricultural products and cement.
- Provision for future covered storage area of 24 m x 36 m for cement and food grains
- Open storage area of 40 m x 30 m for timber logs

Besides, 4 Tractors, 16 Trailers and 4 Fork lift trucks of 3 Tonne capacity are proposed for the Sittwe Port

Similarly, the following facilities are proposed for the back-up area of IWT terminal:

- One covered storage shed of 24 m x 36 m with adequate partition walls for segregating commodities such as food grains and other agricultural products
- Open storage area of 20 m x 30 m for iron & steel, commodities such as machinery & other miscellaneous general cargo
- Truck parking area of 20 m x 25 m

Besides, 2 Tractors, 8 Trailers and 2 Fork lift trucks of 3 Tonne capacity are proposed for the IWT terminal.

In addition, the terminal facilities include office space, electrical room as well as watch & ward office. The terminal back up area requirements include provision of internal roads, general area lighting, and compound wall and gate complex. The back up area requirement is 240 m x 120 m for development proposed which can be further expanded to 495 m x 120 m in the future.

## 2. Approach Channel

### 2.1 Dredging (Sea dredging)

Bathymetric surveys were carried out along with west bank of river Kaladan mouth between MOC jetty (Cherogeah creek) and Fakir point, covering a distance of about 4.5 km of coastline. A flat island is situated in the centre of the river Kaladan about 5 km upstream of the Fakir Point (junction point of river and sea). The main stream of river Kaladan flows between the western side of the island and the main land. The width of the river upstream of the island is about 2.5 km and at down stream where the present Harbour is located, the river widens to about 6.5km. As a result of widening, the river flow reduces and leads to formation of a shoal along the Harbour area. The present depths in the vicinity of the Harbour area are around 3 to 5 m below the Chart Datum (Lowest low water level) of Sittwe Port. The CD value followed by the Sittwe port is 1.3m below the MSL.

The hydrographic survey charts shows that water depths along the alignment of the approach channel up to the inner Harbour area are generally sufficient for proposed sea vessels of draft. 7.2 m (depth requirement 7.9 m) except at one location where dredging is required. However, the inner bar at the Harbour area restricts the navigation of ship of draft 7.3m where a capital dredging is involved. The sea vessel will enter to the Harbour area through a narrow deep channel of depths exceeding 35 to 40 m between the Fakir Point Head land and an Old lighthouse situated on a small hillock.

Apart from the shoal at the Harbour area, there is another shoal area forming the Outer Bar called the horseshoe shoal because of its shape surrounding the river mouth with a narrow gap along side the Myengun Kyun Island. This shoal is considered a bar that is commonly seen at an estuary.

The estimated quantity of sea dredging is 5.62 lakh cu.m. The material consists of soft clay, silt, sand or an admixture of these materials.

### 2.2 Hydrological details

The maximum high waters from July to October are about 0.5m higher when compared to the maximum high waters during February to April. The minimum low waters for the months December to April fall below the Chart Datum.

The astronomical tidal data pertinent to Sittwe Port as referred to Chart Datum (CD) are produced below. The CD adopted for Sittwe Ports 1.3m below the MSL.

Mean High water Springs	(MHWS)	2.4 m above CD
Mean High water Neaps	(MHWN)	1.7 m above CD
Mean Low water Neaps	(MLWN)	0.8 m above CD
Mean Low water Springs	(MLWS)	0.1 m above CD
Mean Sea Level	(MSL)	1.3 m above CD

The speed of the tidal current varies between 0.19/m sec and 1.04 m/sec. Obviously the currents are low during slack period. The currents are strong during mid phase of the tide. Strong currents are recorded during ebb tide that is during receding phase of the tide.

The estimated significant wave height ( $H_s$ ) for the off shore location at 15 m depth varied between 0.1 and 2.1m with an average value of 0.6m. The average wave period is 3s.

The estimated significant wave height near the Sittwe Port varied between 0.1 and 1.0m with an average value of 0.2 m. About 94% of the time the significant wave height is less than 0.4m. The average wave period varies between 1 and 5s with an average value of 3s. The wave direction near the coast is mainly perpendicular to the coastline due to the refraction effects. The coastal inclination at the study region is 20 with respect to north. Hence the wave directions vary between 90 and 130 for the study region.

The estimated maximum wave height and wave period for 29-30 October 1962 cyclone are 3.63m and 8.1s respectively in the off shore area off Sittwe Port region (20.6 N, 89.0 E) the estimated maximum wave height and wave period for 8-14 December 1965 cyclone are 5.91 m and 10.2 s respectively at 17.0 N and 88.5 E. The wave characteristics will be modified due to the refraction/ diffraction when the waves reach the Sittwe Port area. The maximum significant wave height at 10 m depth near the Harbour area would be around 4.4 m during cyclones.



### **BRIEF ON TERMINAL AT KALETWA**

The Kaladan Multimodal Transit Transport Project envisages development of waterway from Sittwe to Kaletwa and road from Kaletwa to India-Myanmar boarder in Mizoram. This requires a transshipment facility at an intermediate location for switching over transport mode from IWT to Road.

The DPR carried out during 2003 identified transshipment facility at Kaletwa, due to lack of navigability caused by large outcrops of rock and other such obstructions in Kaladan river as well as non-availability of depths for navigation beyond Kaletwa. Hence, an IWT terminal was proposed at Kaletwa for the purpose of transshipment of cargo from IWT to highway mode at Kaletwa. This shall be an intermediate terminal from where the cargo is transshipped to highway vice-versa.

The land for Kaletwa terminal will be provided by Govt of Myanmar..

The physical dimensions of the proposed IWT jetty have been fixed considering berthing of vessel of 260 tonnes capacity.

At this location, the low water level is + 4.2 m and highest flood water level is + 33.58 m with flat land connecting to the proposed highway alignment is at + 36 m. Based on the above the jetty deck has been fixed at + 15 m (with maximum water level for operation at + 14.2 m) to ensure availability of water level for operations for most period of the year except for 15 days.

The backs up facilities for the terminals are proposed at the flat land (+ 36 m level). The jetty is proposed to be connected to the backup area, through an approach with a length of 222 meters resulting in 10% gradient which is generally considered acceptable for short stretches with low vehicular movement in case of difficult terrain for economy.

The length of jetty proposed is 54 meters with an apron width of 15 meters for loading/unloading operations with adequate provision for the turning of the trucks on the jetty. The approach comprises 192 meters length of concrete piled structure up to +33.725 m (above HFWL) and 30 meters of road up to back up area at +36 m.

IWT jetty shall be connected by an approach of 9.8 meter width, comprising 8 meters carriage way and a footpath of 1.35 meters with a service duct below the footpath. The approaches planned will facilitate ease of movement of transport vehicles to and from jetties.

For loading / unloading operations at Kaletwa terminal, a mobile tyre mounted crane with outriggers is proposed. The rated capacity of the crane shall be 10 tonnes with a maximum outreach of 12 meters.

The facilities to be provided at the IWT terminal at Kaletwa back-up area shall be as follows:

- One covered transit storage shed of 24 m X 36 m with suitable partitions for segregation of commodities.
- An open storage area of 30 m X 20 m.
- A truck parking area of 40 m X 25 m.
- IWT Office Building (15 m X 12 m)
- Area for future development (170 m X 100 m which may be further expended to 300 m X 100 m in future).
- In addition to the above the terminal facilities include office building, electrical room, generator room, rest room, fencing, water supply facilities, procurement of portable diesel generator set, procurement of mechanical handling equipments (mobile crane, trucks, fork lift trucks) and security office.
- The terminal back-up area development also covers provision of internal roads, general area lighting, security compound and gate complex.

### **Brief on “IWT Fairway Development on Sittwe – Kaletwa stretch”**

River Kaladan is known as river Kolodyne / Chimtuipui in India. It originates in the lushai hills of Myanmar and flows into the Mizoram state along Indo-Myanmar border and enters into Mizoram state. The river again enters into Myanmar along southern border and traverses in Chin and Rakhine state and finally confluences with the Bay of Bengal at Sittwe port. The total length of the river is about 650 kms of which 275 kms is in Myanmar i.e between Sittwe port and India Myanmar border.

The Kaladan river d/s of Indo-Myanmar border is encountered with rocky terrain, rapids and boulders upto Kaletwa and is navigable by country crafts of about 50 tons capacity for about 8 to 9 months in a year. D/s Kaletwa upto Paletwa (68 kms) the river encounters rapids, rock out crops and land slide boulders at Taoung seik. The river in this portion i.e between Kaletwa and Paletwa is navigable round the year when some river conservancy measures are taken. The river stretch d/s Paletwa upto Sittwe port (158 kms) is when defined without any serious navigational impediments.

A technical feasibility study for IWT on river Kaladan and highway along the river Kaladan from Sittwe to India Myanmar border (Mizoram) was conducted during 1999-2000. Subsequently a detailed project report was also prepared during 2003. The above studies were conducted by M/s RITES Consultant appointed by MoEA.

Regarding development of fairway in river Kaladan, the Consultant carried out detailed hydrographic surveys, collected tide readings / water levels at various locations, identified shoal locations to be improved, locations of rock out crops / land slides, locations of deposited materials consisting of pebbles / boulders and rock material. Details are as follows:

#### **1. Surveys & investigations:**

i) Detailed bathymetric and topographic surveys on river Kaladan from Sittwe to Kaletwa was carried out during March – April 2002. Based on the hydraulic conditions, the above river reach between Sittwe and Kaletwa has been divided into the following distinct reaches.

- a) Sittwe to Paletwa (158.5 kms)
- b) Paletwa to Kaletwa (68 kms)

The reach between Sittwe and Paletwa is under the influence of the sea and sea water enters freely through the river confluence at Sittwe. Simultaneous water level measurements have been made at Sittwe, Kyauktaw and Paletwa. Tidal ranges at these locations are as follows.

Sittwe	: 2.59 mtr.
Kyauktaw	: 1.11 mtr.
Paletwa	: 0.92 mtr.

The tidal influence gradually decreases from Paletwa towards Kaletwa and the same ceases at Numbu, 28 km u/s of Paletwa. U/s of Numbu, the river flow depends on fresh water discharges which vary upon seasonal rains and thereby availability of depths for navigation also varies.

ii) **Water Level Readings**

The water level gauges were established at Paletwa, Daletme and at Tarawning. The following water level variations were observed.

- a) At Paletwa & Daletwa: About 12 mtrs.
- b) At Tarawning & Kaletwa: About 20.5 mtrs.

iii) **Chart Datum**

The Chart Datum i.e the lowest water level from Sittwe (Ch. 0.000 kms) to Numbu (Ch. 186.473 kms) where the influence of sea exists is fixed as (-)1.3 mtrs. w.r.t MSL. For the upper reaches i.e from Daletme (Ch.204.921 kms) to Kaletwa (Ch. 226.551 kms), the chart datum has been fixed considering the lowest water level during the driest months i.e Feb. to April. The chart datum and the gradient off the river at various locations between Sittwe and Kaletwa are as follows.

Location	Chainage(km)	CD W.R.T.MSL (m)	Gradient
Sittwe	0.000	-1.3	0
Kyauk taw	92.696	-1.3	0
Paletwa	158.466	-1.3	0
Numboo	186.473	-1.3	0
Daletime	204.921	1.068	7791
Tarawining	217.647	1.988	13833
Mizar	221.883	3.650	2549
Sitpitpyin	226.551	4.2	8487

2. **Hydrographic surveys :**

Detailed hydrographic surveys were carried out for the entire stretch between Sittwe to Kaletwa. The detailed survey using digital cum graphic recorder and dual frequency echo-sounder were conducted by recording cross section at 200 mtr intervals. The position fixing of the echo sounding was exercised by DGPS. The detailed hydrographic survey between Sittwe (Ch.00 kms) Kyauktaw (Ch.92.696 kms) was carried out during technical feasibility stage conducted during 1999-2000. The detailed hydrographic survey between Kyauktaw(Ch. 92.696) and Kaletwa (Ch 226.55 kms) was conducted at DPR stage i.e during Feb-April'2002.

### 3. **Surveys & Investigation for rapid and rock out crops:**

The field surveys and investigations for identification and removal of rocks were carried out. The river between Sittwe and Paletwa is very wide. The width between Paletwa and Numbu is about 100 mtr. to 175 mtr while u/s Numbu upto Kaletwa the width is about 50 mtr. About 26 no. shoals having depths between 0.5 mtr and 1.8 mtr exist between Paletwa and Kaletwa. 17 no. impediments in the form of rock out crops / landslides / rapids exist between Paletwa and Kaletwa.

### 4. **Navigational route:**

The hydrographic surveys reveal that adequate depths and widths are available for navigation in the river from Sittwe to Launggadoo which is about 4 km d/s of Paletwa. The navigational hazards such as shoals, rapids / rock out crops, boulders etc. exist u/s of Launggadoo.

The navigational route from Sittwe to Kyauktaw runs along the right bank of river Kaladan. Approx. width and depth between Sittwe and Kaletwa are as follows

Reach	Width	Depth	Shoals
Sittwe (0.00) – Kyauktaw (92.71 km)	380 M- 8800 M	2.2 M to 20 M	3 shoals exist at following chainage  14.85 – 15.7 km 69.17 – 70.75 km 86.2 – 86.72 km
Kyauktaw (92.7 km) – Paletwa (153.5km)	200 – 250 M	3 M to 20.3 M	Shoal of 892 M x 1.50 M x 1.5 M exists near Launggadoo ( 4 km d/s Paletwa)
Paletwa(158.51 km) – Kaletwa (226.6 km)	100 – 175 M Between Paletwa – Numbu 50 M between Numbu and Kaletwa	0.5 M to 1.8 M	26 shoals Impediments at 17 locations.

### 5. **Geology, Geotechnical details of the Rapids**

The 26 no. shoals observed between Paletwa and Kaletwa are predominantly composed of sand and gravel. At impediments field observations, Schmidt tests & Lab tests revealed that the rapid formations are predominantly of fine to medium grained sand stone (hardness – 2.4 Mohr scale) Shale, sand stone (hard & compact and mudstone) are observed. Where rock is encountered, the rock mass is of moderate to hard blastability with Blastability Index of Lily (1986) ranging from 29 to 41.

Slopes are 20 to 450 at various locations except at land slides where slopes range from 780 to 900. Slopes at rapid are about 600. No night navigation facilities are proposed.

## 6. Design channel to be constructed.

The following design channel is proposed to be developed

Top width of channel	: 57.5 Mtrs.
Bed width of channel	: 37.5 Mtrs.
Depth below CD (LWL)	: 2.0 Mtrs.
Side slope	: 1:5
Additional width Allowance at bends	: 8 Mtrs.
Minimum radius of bend	: 200 Mtrs.

7. In order to achieve the above channel the following river conservancy works are estimated in the DPR.

### A) River dredging comprising the following types of soil

i)	Sand and soft material	4,75,551 M3	Details of shoals given in Table 2.7 & Annexure - 3.1 of DPR.
ii)	Deposited material (Pebbles / Boulders)	12,08,335 M3	
iii)	Rock (Hard material)	3,30,746 M3	

Summary details of dredging quantities, Boulders, Rock removal in various reaches is as follows:

Dredging Quantities					
Reach	Quantity in cu.m				
	Navigation Channel (Sand)	Shoals (Sand / Coarse/ Pebbles)	Boulders	Rock	Remarks
Sittwe to Kyauktaw	62,663	-	-	-	Small patches of shallow areas of chainages 14.85, 69.17 & 86.2
Kyauk tau to Paletwa	15,895	31,414	-	-	Shaol at Launggadoo
Paletwa to Tom brow (Land slide)	212,293	434,392	-	-	Mixture of sand, gravel and pebbles
Land Slide area	-	-	24,375		boulder and rock
Tom brow to Sitpitpyin (Kaletwa)	184,700	718,154		330,746	
Total	475,551	1,183,960		330,746	
Grand Total	2,014,632				

**NOTE:**

The dredged materials are to be pumped through a combination of floating, sinker and shorelines into designated dumping / reclamations areas. At the reclamation areas the material needs to be leveled. In some reclamation areas and in some dumping grounds, bunds are required to be constructed to block the material. In some areas the dredged material can be dumped to the under water disposal areas.

**B) Aids to navigation (only for day navigation)**

- i) Navigational Buoys between Sittwe to Kyauktaw : 10 No.
- ii) Fixed shore Marks  
(Permanent Concrete posts) on the banks  
With navigational marks along with  
Luminous paint / adhesive scotchlite  
about 6.0 M height above ground level  
and with signs and signals as per SIGNI  
between Kyauktaw and Paletwa : 70 No.

**8. Additional information:**

- i) The area is sparsely connected.
- ii) The nearest site of rock blasting is about 180 km from Sittwe.
- iii) The blasting site is not well connected from Sittwe and approx. journey time from Sittwe is around two days.
- iv) Repair facilities for machinery to be provided by the contractors.
- v) The flood season is from May to November (7 months) and is not suitable for taking up waterway developmental works.
- vi) Ideal period for working is December to April (5 months)
- vii) Facilities for dredging and blasting are not available locally. The equipment and material (dredgers, explosives and explosive agents) need to be mobilized from India.
- viii) All supplies need to be obtained from Yangon /carried from India.

**BRIEF ON CONSTRUCTION OF HIGHWAY FROM (KALETWA) TO INDIA  
MYANMAR BORDER IN MYANMAR (62 KM)**

For connectivity from Sittwe Port to India-Myanmar border, the trade route is proposed to provide transportation by two modes of transport i.e. from Sittwe port to Kaletwa by waterway and from Kaletwa to India-Myanmar border in Myanmar by road.

The length of the project road is 62km. The highway project is proposed to be completed within thirty two months time after mobilization of resources, which may take about two months. The project road runs, in the South – North direction in the Chin State of Myanmar, parallel to Kalet River/Chaung. There are eleven villages situated nearby the proposed alignment of the project road.

The alignment of the project road passes through mountainous terrain exceeding 25% ground slope across the alignment. The soil along the alignment of project road is fairly homogenous in nature and character. Soil type varies from silty clay to sandy clay of medium plasticity, Plasticity Index (PI) found to be varying from 9 to 27. The soaked CBR value ranges between 3% and 8%. The salient features of the proposed project road is given below:-

<b>Sl. No.</b>	<b>Item</b>	<b>Quantity</b>
1.	Project road Length	62.0 km
2.	Carriageway width	6.5m
3.	Shoulder width	1.25 m both sides
4.	Roadway width	9.0m
5.	Culverts <ul style="list-style-type: none"> <li>• Box Culverts</li> <li>• Pipe Culverts</li> </ul>	12 375
6.	Bridges (11 Nos.) <ul style="list-style-type: none"> <li>• 30m Waterway</li> <li>• 20m Waterway</li> </ul>	3 8
7.	Retaining Wall	3686.0m
8.	Lay-bye / Rest Area <ul style="list-style-type: none"> <li>• Bus Lay bye</li> <li>• Truck Parking</li> </ul>	11 Locations 3 Locations

The dimension of the Roadway is as below

SL No.	Design Elements	Dimension
1.	Roadway width	
	At Road and Culverts*	9.0 m
	At Bridges**	10.50 m
2.	Carriageway width	6.5 m
3.	Cross-slopes/camber (%)	2.5%

\* Roadway width is excluding width of side drain and parapet wall / Crash Barrier.

\*\* Roadway width is Overall Width between outermost faces of the railing.

**Specifications of Pavement structure shall be follows:**

Pavement Layer	Road Sections & Proposed Pavement Structure	
	From km 0.0 to km 12.15 & from km 26.4 to km 62.0	From km 12.15 to km 26.4
Surfacing	20mm PC + 40mm BM	20mm PC + 40mm BM
Base	225mm – WMM, comprising 3 layers of 75mm each	225mm – WMM, comprising 3 layers of 75mm each
Sub- base	200mm – Additive stabilized layer to be laid in single layer.	350mm- Additive Stabilised (to be laid in two layers, 200mm and 150mm)

PC: Premix Carpet, BM: Bituminous, WMM: Wet Mix Macadam:

Additive Stabilisation: Additive may be Cement or Lime

### **Additional Information**

- 1) Construction materials like Rock deposits are not available along the road alignment except at one isolated location, near village Satchain. Aggregate is available locally. If adequate quantity is not available, the same is to be taken from India through Sittwe port. However, bed of Kaladan river, between Kaletwa and Meesa village, contains a good source of river sand, shingles, cobbles and boulders and that would be feeding the major chunk of aggregate and sand requirement.
- 2) Other constructional materials (stores) such as bitumen, cement, steel etc. are not available locally and have to be transported from India, preferable by water route along river Kaladan from Port of Sittwe. The overall requirement of construction Stores for the development of the road has been worked out as below:

<b>Sl No.</b>	<b>Name of Item</b>	<b>Quantity (MT)</b>
1.	Cement	54000
2.	HYSD Steel	2600
3.	Bitumen	2000

- 3) The area is remote & sparsely connected the nearest site of rock blasting is about 180 km from Sittwe.
- 4) The blasting site is not adequately connected from Sittwe and approx journey time from Sittwe is approx two days.
- 5) Repair facilities for machinery to be provided by the contractor.
- 6) The flood season is from May to November (7 Months) and is not suitable for taking up waterway developmental works. Ideal period for working is December to April (5 Months).
- 7) The equipment and material need to be mobilized from India. All the supplies need to be obtained from Yangon /carried from India.
- 8) Myanmar Port Authority may have some launches. The consultant has to ascertain the details of the same from the Myanmar Port Authority.
- 9) The topography and geotechnical investigation have been conducted at the DPR stage. The bore hole log details / results are available in DPR. The same may be used by the consultant. However in case further data is required in order to update the DPR, the same shall be collected by the consultant at his own cost and resources.

**Scope of Work for Consultant to be appointed for implementation of Kaladan Multimodal project in Myanmar.**

**General**

1. Study the DPR and other documents prepared by RITES with a view to update the cost estimate.
2. Reconcile the existing DPR and other documents with the present ground situation. The Consultant need not have a fresh relook of the entire arrangement. The Consultant shall adopt the specifications indicated in the DPR appropriately fine tune keeping in view the present ground situations. Update the cost estimate of various components viz. development of Sittwe Port, Sittwe IWT terminal, Sea dredging for approach channel to the Port, dredging in Kaladan River, aids to navigation IWT terminal at Kaletwa, Vessels, and road from Kaletwa to Indo – Myanmar boarder in Mizoram based on present rates of different items. Variation in quantity and cost shall be explained with a comparative statement giving full justification for variations along with supporting documents.
3. Plan execution of all activities in a time bound manner considering the prevailing climatic conditions in the project area so that the construction works are completed as per schedule. For each activity, bar chart with time limit, physical and financial progress etc. shall be prepared.
4. Prepare tender documents, bill of quantities, NIT etc. and also assist IWAI in evaluation of bids for selection and appointment of main contractor by Govt. of India.
5. Set up site Offices at Sittwe and Kaletwa to supervise and monitor the dredging activities and construction activities by engaging qualified and experienced personnel as per the agreed manpower schedule.

6. Resolve problems, if any, encountered in dredging/dumping sites/construction sites duly complying the local rules and regulations.
7. Maintain measurement books and scrutinize all bills raised by the Contractors for the works and certify the bills for payment with reference to Contract conditions.
8. Submit monthly progress report in the standard format and take corrective measures to speed up the work if delay occurred/anticipated.
9. All required correspondence seeking clearances in respect of induction of men and materials would be done by Consultant on behalf of the Authority.
10. All logistics, materials, equipments, travel costs etc., required for providing the Consultancy service shall be arranged by the Consultant at his own cost.
11. The Consultant shall prepare completion report of the project.

**Sea Dredging:**

1. Assess the ground situation at the existing Sittwe port and its approach channel for updating the estimate.
2. Check survey, pre & post dredging survey, preparation of survey charts and estimation of dredging quantity shall be done by IWAI.
3. Identify the dumping area and bund construction for dumping the dredged material.
4. The Consultant shall plan the dredging activity considering the working/monsoon conditions in the project zone so as to complete the work within stipulated period.
5. Assess the number and type of dredgers required to carry out sea dredging for the approach channel. Soil characteristics are given in DPR.
6. Work out rate analysis and market survey for availability of suitable dredgers and work out cost estimate for dredging.
7. Supervise the dredging work on day to day basis and maintain records on progress of works.
8. Certify the bills for making payment to the contractor.

**Sittwe Port and IWT Terminals at Sittwe & Kaletwa**

1. Assess the present ground situation of the proposed sites.
2. The Port shall be planned to accommodate 6000 DWT vessel on the short term and 20,000 DWT vessels on the long term basis. New port facilities at Sittwe are to be constructed as per the DPR. Dismantling of existing structure at Sittwe port is not contemplated. The IWT terminals shall be planned to accommodate 260 DWT inland vessels.
3. Revalidate/prepare detailed design, drawings including working drawings, estimate, tender document and bill of quantities for setting up of a suitable Port and IWT terminal facilities (berth, jetty, back up facilities including covered storage, open storage, office, approach road, appropriate mechanical loading/unloading facilities like cranes, tractors, trailers, fork lifts and other operational facilities etc.) at Sittwe Port and IWT terminals at Sittwe and Kaletwa. Soil / rock characteristics are given in DPR. Further any tests required shall be done by contractor under the supervision of consultant.
4. Supervise construction of all works and maintain measurement books and record of progress of works.
5. Prepare detailed technical specifications of cargo handling equipments like cranes, tractors, trailers, fork lifts for procurement.

**Fairway development in Kaladan river**

1. Assess the ground situation on Sittwe-Kaletwa stretch of Kaladan river.
2. Check survey, pre & post dredging survey preparation of survey charts and estimation of dredging quantity shall be done by IWAI.
3. The Consultant shall plan the dredging activity considering the working/monsoon conditions in the project zone so as to complete the work within stipulated period.

4. Assess number and type of dredger units required for timely completion of the work considering working season and mobilization & demobilization of dredgers. Soil and rock characteristics are given in DPR.
5. The Consultant shall recommend suitable method for removal of hard strata/rock out crops/bed rocks and coordinate with the Contractor for removal and disposal of the same at suitable locations.
6. Supervise on day to day basis the dredging work, rock blasting, removal of boulders, pebbles etc. and maintain measurement books and record of progress.
7. Certify the bills for making payment to the contractor.

#### **Aids to navigation**

1. The Consultant shall identify suitable type of navigational buoys on stability considerations and recommend suitable design, specifications for buoys including anchorage and chain system, type & make of the buoys as per IALA guidelines for procurement and installation.

#### **Construction of cargo vessels (10 Nos.) of 260 tonnes capacity**

1. For carrying cargo by IWT from Sittwe to Kaletwa (225 Kms.), 10 vessels of the following size are to be designed, constructed and delivered:-

#### **Main particulars**

Length Overall	: 40.00 m.
Beam Moulded	: 8.50 m
Depth Moulded	: 2.30 m
Draft Loaded (Mx.)	: 1.50 m.
Speed	: 9 Knot (16.8 Km. per hour)
Main Engine BHP	: 2 X 275

Cargo capacity at 1.50 m. draft	:	260 tonnes
Air Draft (Vertical Clearance)	:	6.00 m
Fuel Oil Capacity	:	10 tonnes
Fresh Water Capacity	:	5 tonnes
Compliment	:	10 persons
Accommodation	:	2 cabins each for 4 crews & 1 cabin for 2 Offices Galley etc.

2. Since the depth of water varies in different period of the year, the above vessels are to be designed and constructed in such a manner that the vessel shall carry 260 tonnes at fully loaded draft of 1.5 m., 120 tonnes at draft of 1 m., and 100 tonnes at a draft of 0.9 m.
3. The Consultant shall prepare the tender's specifications for design and construction of vessels and tender document for delivery of same at Sittwe Port.
4. Construction supervision of vessels at the Yard shall be done by Consultant. The clarification standard applicable to vessels plying in Myanmar is to be ascertained and followed by the Consultant. The place of yard will be either in India or Myanmar. The Consultant has to make his own estimate of travel, boarding, lodging and local conveyance cost etc. and include in the quoted rate.
5. Certify the bills for making payments.

**HIGHWAY**

1. The road (62 kms stretch between Kaletwa and Myanmar – India border) to be constructed by Myanmar Govt. will conform to minimum design class-III of Asian Highway standard of 6.5 metres width having 2 lane bituminous carriage way with 1.25 metres shoulders on each side for the formation width of 9.0 metres.
2. Approval of borrow areas of soil/ sand/boulder/stone and approval of quarries for stone aggregates shall be done by the Consultant.
4. Soil/rock characteristics are given in DPR. Further any soil test/material test related to the works like steel test, pile test etc., shall be done by the Contractor under the supervision of Consultant.
6. The Consultant shall maintain measurement books; scrutinize bills raised by the Contractor and certify the bills for payments in accordance with Contract conditions.

## **Annexure –‘D’**

### **Manpower Estimate**

**Activity 1:** Survey, design & drawing, estimation, tendering, and award of work contract.

**(I) PORT & IWT**

Item of Work	Man months	Man months
	Level-1	Level-2
Sea Dredging	5 (1 x 5 months)	5 (1 x 5 months)
Sittwe Port, Sittwe terminal and Kaletwa terminal	10 (2 x 5 months)	15 (3 x 5 months)
IWT Fairway	5 (1 x 5 months)	5 (1 x 5 months)
Vessel	7 (1 x 7 months)	-
<b>Total</b>	<b>27 man months</b>	<b>25 man months</b>

**Activity 2:** Project Management & construction Supervision.

**(I) PORT & IWT**

Item of Work	Man months	Man months
	Level-1	Level-2
Sea Dredging	20 (1 x 20 months)	40 (2 x 20 months)
Sittwe Port, Sittwe terminal and Kaletwa terminal	72 (2 x 36 months)	108 (3 x 36 months)
IWT Fairway	98 (2 x 49 months)	147 (3 x 49 months)
Vessel	19 (1 x 19 months)	-
<b>Total</b>	<b>209 man months</b>	<b>295 man months</b>

**(II) Highway**

Item of Work	Man months	Man months
	Level - 1	Level - 2
Highway	48 (2 x 24 months)	120 (5 x 24 months)
<b>Total</b>	<b>48 man months</b>	<b>120 man months</b>

**Nodal Officer**

	Level - 1	Level - 2
<b>Nodal officer (one each for sea dredging, Port / IWT Terminals and IWT fairway development/Highway)</b>	<b>168 (3 x 56 man months)</b>	-

**Note: -** 1) The Qualification of Experience for Level -1 and Level -2 officer shall be as follows;

**Level-1:** BE / B-Tech (Civil / Mech in respective disciplines) with 10 years experience.

**Level-2:** BE / B-Tech (Civil / Mech in respective disciplines) with 3 years experience or Diploma ( Civil / Mech in respective disciplines) with 5 years experience.

- 2) One of the three Nodal Officers indicated in Annexure 'D' to be nominated and designated as "Team Leader". The qualification of the Team leader shall be similar to Level-1 Officer. However the experience of Team leader shall be 15 years in the respective field.
- 3) For Activity-1 the consultant has to depute the required manpower at site for collection of field data, assessing the ground situation etc. For rest of the works the consultant can operate from their own home office. For Activity-2 assignment necessary office space has to be assigned by the Consultants themselves at their own cost. The place of work postings for Level-1, Level-2 and Nodal officers for Activity-2 assignment shall be Myanmar.
- 4) The Consultant may deploy and submit CVS for Level-1 expert from the field of Naval Architect, Marine/Mech. Engineer and Electrical Engineer for undertaking vessel related Activity. However, the total man month period for all three experts will remain as 19 months.













**Section 6.**

**Standard Form of Contract**

# **STANDARD FORM OF CONTRACT**

**Consultants' Services**

**Lump-Sum**

## Contents

I. Form of Contract	74-75
II. General Conditions of Contract	76
1. General Provisions	76-78
2. Commencement, Completion, Modification and Termination of Contract	79-82
3. Obligations of the Consultant	83-85
4. Consultants' Personnel and Sub-Consultants	86-87
5. Obligations of the "Employer"	88
6. Payments to the Consultant	89-90
7. Fairness and Good Faith	91
8. Settlement of Disputes	92
9. Liquidated Damages	93
10. Miscellaneous Provisions	94
III. Special Conditions of Contract	95-97
IV. Appendices	98
Appendix A – Description of Services	99
Appendix B - Reporting Requirements	99
Appendix C - Staffing Schedule	99
Appendix D - Cost Estimates in Foreign Currency	99
Appendix E - Duties of the Employer	99

## CONTRACT FOR CONSULTANTS' SERVICES

**Between**

**[name of the Client]**

**And**

**[name of the Consultant]**

**Dated:**

## I. Form of Contract

(Text in brackets [ ] should be filled up appropriately; 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 Inland Waterways Authority of India, A-13, Sector-1, Noida, U.P acting through Chairman, (hereinafter called the “Employer”), of the First Part and, [name of Consultant] (hereinafter called the “Consultant”) of the Second Part.

[Note: If the Consultant consist of more than one entity, the above should be partially amended to read as follows: “...(hereinafter called the “Employer”) and, on the other hand, a joint venture/consortium/association consisting of the following entities, namely, lead consultant [name of lead Consultant] and [name of Consultant/s] (hereinafter called the “Consultant”).

### WHEREAS

- (a) the Consultant, having represented to the “Employer” that he has the required professional skills, personnel and technical resources, has offered to provide in response to the Tender Notice dated\_\_\_\_\_ issued by the Employer ;
- (b) the “Employer” has accepted the offer of the Consultant to provide the services on the terms and conditions set forth in this Contract.

**NOW, THEREFORE, IT IS HEREBY AGREED** between the parties as follows:

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

- (a) The General Conditions of Contract;
- (b) The Special Conditions of Contract;
- (c) The following Appendices:
  - Appendix A: Description of Services
  - Appendix B: Reporting Requirements
  - Appendix C: Staffing schedule
  - Appendix D: Cost Estimates
  - Appendix E: Duties of the “Employer”
  - Appendix F: Duties of the Consultant

2. The mutual rights and obligations of the “Employer” and the Consultant shall be as set forth in the Contract, in particular:

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

(b) The “Employer” shall make payments to the Consultant in accordance with the provisions of the Contract.

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

Signed by -----

In presence of 1. For and on behalf of the President of India [name of “Employer”]

(Witnesses)

(i) [Authorized Representative]

(ii)

2. For and on behalf of [name of Consultant]

In presence of

(Witnesses)

(i)

(ii) [Authorized Representative]

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

3. For and on behalf of each of the Members of the Consultant.

[Name of member]

[Authorized Representative]

4. [Name of member]

[Authorized Representative]

## II. General Conditions of Contract

### 1. GENERAL PROVISIONS

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

- (a) “Applicable Law” means the laws and any other instruments having the force of law in India for the time being.
- (b) “Consultant” means any private or public entity that will provide the Services to the “Employer” under the Contract.
- (c) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is this General Conditions (GC), the Special Conditions (SC), and the Appendices.
- (d) “Day” means calendar day.
- (e) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- (f) “Foreign Currency” means any currency other than the currency of the “Employer’s” country.
- (g) “GC” means these General Conditions of Contract.
- (h) “Government” means the Government of India
- (i) “Local Currency” means Indian Rupees.
- (j) “Member” means any of the entities that make up the joint venture/consortium/association; and “Members” means all these entities.
- (k) “Party” means the “Employer” or the Consultant, as the case may be, and “Parties” means both of them.
- (l) “Personnel” means professionals and support staff provided by the Consultants or by any Sub-Consultants and assigned to perform the Services or any part thereof; “Foreign Personnel” means such professionals and support staff who at the time of being so provided had their domicile outside the Government’s country; “Local Personnel” means such professionals and support staff who at the time of being so provided had their domicile inside the Government’s country; and “Key Personnel” means the Personnel referred to in Clause GC 4.2(a).
- (m) “Reimbursable expenses” means all assignment-related costs [such as travel, translation, report printing, secretarial expenses, subject to specified maximum limits in the Contract].
- (n) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented.
- (o) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- (p) “Sub-Consultants” means any person or entity to whom/which the Consultant subcontracts any part of the Services.
- (q) “Third Party” means any person or entity other than the “Employer”, or the Consultant.
- (r) “In writing” means communicated in written form with proof of receipt.

## 1.2 Relationship Between the Parties

Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the “Employer” and the Consultant. The Consultant, subject to this 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.

**1.3 Law Governing Contract:** This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the applicable laws of India.

**1.4 Headings:** The headings shall not limit, alter or affect the meaning of this Contract.

### 1.5 Notices

**1.5.1** 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 by registered post to such Party at the address specified in the SC.

**1.5.2** 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 SC.

**1.6 Location:** The Services shall be performed at such locations as are specified in **Appendix A hereto** and, where the location of a particular task is not so specified, at such locations, as the “Employer” may approve.

**1.7 Authority of Lead Partner:** In case the Consultant consists of a joint venture/consortium/ association of more than one entity, the Members hereby authorize the entity specified (Lead Consultant) in the SC to act on their behalf in exercising all the Consultant’s rights and obligations towards the “Employer” under this Contract, including without limitation the receiving of instructions and payments from the “Employer”. However, each member or constituent of Consortium of Consultant shall be jointly and severally liable for all obligations of the Consultant under the Contract.

**1.8 Authorized Representatives:** Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the “Employer” or the Consultant may be taken or executed by the officials specified in the SC.

**1.9 Taxes and Duties:** The Consultant, Sub-Consultants and Personnel shall be liable to pay such direct and indirect taxes, duties, fees and other impositions levied under the applicable laws of India.

### 1.10 Fraud and Corruption

**1.10.1 Definitions:** It is the Employer’s policy to require that Employers as well as Consultants observe the highest standard of ethics during the execution of the Contract. In pursuance of this policy, the Employer defines, for the purpose of this provision, the terms set forth below as follows:

- (i) “Corrupt practice” means the offering, receiving, or soliciting, directly or indirectly, of any thing of value to influence the action of a public official in the selection process or in contract execution;
- (ii) “Fraudulent practice” means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;
- (iii) “Collusive practices” means a scheme or arrangement between two or more consultants, with

or without the knowledge of the Employer, designed to establish prices at artificial, noncompetitive levels;

(iv) “Coercive practices” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract;

#### **1.10.2 Measures to be taken by the Employer**

(a) The Employer may terminate the contract if it determines at any time that representatives of the consultant were engaged in corrupt, fraudulent, collusive or coercive practices during the selection process or the execution of that contract, without the consultant having taken timely and appropriate action satisfactory to the Employer to remedy the situation;

(b) The Employer may also sanction against the Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the Consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Employer-financed contract;

#### **1.10.3 Commissions and Fees**

At the time of execution of this Contract, the Consultants shall disclose any commissions or fees that may have been paid or are agreed to be paid to agents, representatives, or commission agents with respect to the selection process or 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.

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

**2.1 Effectiveness of Contract:** This Contract shall come into force and effect on the date (the “Effective Date”) of the “Employer’s” notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the conditions precedent and effectiveness conditions, if any, listed in the SC have been met.

**2.2 Termination of Contract for Failure to Become Effective:** If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SC, 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.

**2.3 Commencement of Services:** The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.

**2.4 Expiration of Contract:** Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.

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

**2.6 Modifications or Variations:** (a) 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. Pursuant to Clause GC 7.2 here of, however, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

(b) In cases of substantial modifications or variations, the prior written consent of the Employer is required.

### **2.7 Force Majeure**

**2.7.1 Definition** (a) For the purposes of this Contract, “Force Majeure” means an exceptional event or circumstance which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable and not brought about by or at the instance of the Party claiming to be affected by such events and which has caused the non-performance or delay in performance, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, tsunami, explosion, storm, flood or other extreme adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.

(b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional

action of a Party or by or of 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 avoid or overcome in the carrying out of its obligations hereunder.

(c) Subject to clause 2.7.2, Force Majeure shall not include insufficiency of funds or inability to make any payment required hereunder.

**2.7.2 No Breach of Contract:** The failure of a Party to fulfill 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.

**2.7.3 Measures to be Taken:** (a) 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.

(b) 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.

(c) 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.

(d) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the "Employer", shall either:

(i) Demobilize,; or

(ii) Continue with the Services to the extent possible, in which case the Consultant shall continue to be paid proportionately and on prorated basis, under the terms of this Contract.

(e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 8.

**2.8 Suspension:** The "Employer" 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 allow the Consultant to remedy such failure, if capable of being remedied, within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

## **2.9 Termination**

**2.9.1.1 By the "Employer":** The "Employer" may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (h) of this Clause GC 2.9.1.1

(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 Clause GC 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the "Employer" 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 and which has substantial bearing on providing Services under this contract) insolvent or go 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 Clause GC 8 hereof.

(d) If the Consultant, in the judgment of the “Employer”, has engaged in corrupt or fraudulent practices in competing for or in executing this Contract.

(e) If the Consultant submits to the “Employer” a false statement which has a material effect on the rights, obligations or interests of the “Employer”.

(ee) If the Consultant places itself in position of conflict of interest or fails to disclose promptly any conflict of interest to the Employer.

(f) If the consultant fails to provide the quality services as envisaged under this Contract. The Consultancy Monitoring Committee (CMC) formulated to monitor the progress of the assignment may make judgment regarding the poor quality of services, the reasons for which shall be recorded in writing. The CMC may decide to give one chance to the consultant to improve the quality of the services.

(g) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

(h) If the “Employer”, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.9.1.2 In such an occurrence the “Employer” shall give a not less than thirty (30) days’ written notice of termination to the Consultants, and sixty (60) days’ in case of the event referred to in (h).

**2.9.2 By the Consultant:** The Consultant may terminate this Contract, by not less than thirty (30) days’ written notice to the “Employer”, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GC 2.9.2.

(a) If the “Employer” fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 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 period of not less than sixty (60) days.

(c) If the “Employer” fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

(d) If the “Employer” 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 “Employer” of the Consultant’s notice specifying such breach.

**2.9.3 Cessation of Rights and Obligations:** Upon termination of this Contract pursuant to Clauses GC 2.2 or GC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 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 Clause GC 3.3 hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.6 hereof, and

(iv) any right which a Party may have under the Law.

**2.9.4 Cessation of Services:** Upon termination of this Contract by notice pursuant to Clauses GC 2.9.1 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the "Employer", the Consultant shall proceed as provided, respectively, by Clauses GC 3.9 or GC 3.10 hereof.

**2.9.5 Payment upon Termination:** Upon termination of this Contract pursuant to Clauses GC

2.9.1 hereof, the "Employer" shall make the following payments to the Consultant:

(a) If the Contract is terminated pursuant to Clause 2.9.1 (g), (h) or 2.9.2, remuneration pursuant to Clause GC 6.3(h) (i) hereof for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures pursuant to Clause GC 6.3(h)(ii) hereof for expenditures actually and reasonably incurred prior to the effective date of termination;

(b) If the agreement is terminated pursuant of Clause 2.9.1 (a) to (f), the consultant shall not be entitled to receive any agreed payments upon termination of the contract. However, the "Employer" may consider to make payment for the part satisfactorily performed on the basis of Quantum Merit as assessed by it, if such part is of economic utility to the Employer. Applicable Under such circumstances, upon termination, the client may also impose liquidated damages as per the provisions of Clause 9 of this agreement. The consultant will be required to pay any such liquidated damages to client within 30 days of termination date.

**2.9.6 Disputes about Events of Termination:** If either Party disputes whether an event specified in paragraphs (a) through (g) of Clause GC 2.9.1 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

### 3. OBLIGATIONS OF THE CONSULTANT

#### 3.1 General

**3.1.1 Standard of Performance:** The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional 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 “Employer”, and shall at all times support and safeguard the “Employer’s” legitimate interests in any dealings with Sub-Consultants or Third Parties.

**3.2 Conflict of Interests:** The Consultant shall hold the “Employer’s” interests paramount, without any consideration for future work, and strictly avoid conflict of interest with other assignments or their own corporate interests. If during the period of this contract, a conflict of interest arises for any reasons, the Consultant shall promptly disclose the same to the Employer and seek its instructions.

**3.2.1 Consultant not to benefit from Commissions, Discounts, etc.:** (a) The payment of the Consultant pursuant to Clause GC 6 hereof shall constitute the Consultant’s only payment in connection with this Contract and, subject to Clause GC 3.2.2 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.

(b) Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the “Employer” on the procurement of goods, works or services, the Consultant shall comply with the Employer’s applicable procurement guidelines, and shall at all times exercise such responsibility in the best interest of the “Employer”. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the “Employer”.

**3.2.2 Consultant and Affiliates Not to Engage in Certain Activities:** 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.

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

**3.3 Confidentiality:** Except with the prior written consent of the “Employer”, 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 its Personnel make public the recommendations formulated in the course of, or as a result of, the Services.

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

**3.5 Accounting, Inspection and Auditing:** 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 changes and costs, and the bases thereof, and (ii) shall periodically permit the "Employer" or its designated representative and/or the Employer, and up to five 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 "Employer" or the Employer, if so required by the "Employer" or the Employer as the case may be.

**3.6 Consultant's Actions Requiring "Employer's" Prior Approval:** The Consultant shall obtain the "Employer's" prior approval in writing before taking any of the following actions:

(a) Any change or addition to the Personnel listed in Appendix C.

(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 "Employer". Notwithstanding such approval, the Consultant shall always retain full responsibility for the Services. In the event that any Sub-Consultants are found by the "Employer" to be incompetent or incapable or undesirable in discharging assigned duties, the "Employer" may request the Consultant to provide a replacement, with qualifications and experience acceptable to the "Employer", or to resume the performance of the Services itself.

(c) For taking any action under a civil works contract designating the Consultant as "Engineer", for which action, pursuant to such civil works contract, the written approval of the "Employer" as "Employer" is required.

**3.7 Reporting Obligations:** The Consultant shall submit to the "Employer" the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix. Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.

**3.8 Documents Prepared by the Consultant to be the Property of the "Employer":** All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant for the "Employer" under this Contract shall become and remain the property of the "Employer", and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the "Employer", together with a detailed inventory

thereof. The Consultant may retain a copy of such documents, but shall not use anywhere, without taking permission, in writing, from the Employer and the Employer reserves right to grant or deny any such request. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the "Employer's" prior written approval to such agreements, and the "Employer" shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

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

**Equipment and Materials provided by the Consultants:** Equipment or materials brought 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.

## 4. CONSULTANTS' PERSONNEL AND SUB-CONSULTANTS

4.1 **General:** The Consultant shall employ and provide such qualified and experienced Personnel and Sub-Consultants as are required to carry out the Services.

4.2 **Description of Personnel:** (a) 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 as per the consultant's proposal and are described in Appendix C. If any of the Key Personnel has already been approved by the "Employer", his/her name is listed as well.

(b) If required to comply with the provisions of Clause GC 3.1.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in Appendix C may be made by the Consultant by written notice to the "Employer", provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1(b) of this Contract. Any other such adjustments shall only be made with the "Employer's" written approval.

(c) If additional work is required beyond the scope of the Services specified in Appendix A, the estimated periods of engagement of Key Personnel set forth in Appendix C may be increased by agreement in writing between the "Employer" and the Consultant. In case where payments under this Contract exceed the ceilings set forth in Clause GC 6.1(b) of this Contract, this will be explicitly mentioned in the agreement.

4.3 **Approval of Personnel:** The Key Personnel and Sub-Consultants listed by title as well as by name in Appendix C are hereby approved by the "Employer". In respect of other Personnel which the Consultant proposes to use in the carrying out of the Services, the Consultant shall submit to the "Employer" for review and approval a copy of their Curricula Vitae (CVs). If the "Employer" 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 "Employer".

4.4 **Removal and/or Replacement of Personnel:** (a) Except as the "Employer" 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.

(b) If the "Employer" (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 "Employer's" written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the "Employer".

(c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, as well as any reimbursable expenditures the Consultants may wish to claim as a result of such replacement, shall be subject to the prior written approval by the "Employer". The rate of remuneration applicable to a replacement person will be the rate of remuneration paid to the

replacement person. Also (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.

## 5. OBLIGATIONS OF THE “EMPLOYER”

**5.1 Assistance and Exemptions:** Unless otherwise specified in the SC, the “Employer” 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) 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.

(c) Provide to the Consultant, Sub-Consultants and Personnel any such other assistance as may be specified in the SC.

**5.2 Change in the Applicable Law Related to Taxes and Duties:** If, after the date of this Contract, there is any change in the Applicable Laws of India with respect to taxes and duties, which are directly payable by the consultant for providing the services i.e. service tax or any such applicable tax from time to time, 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 Clause GC 6.1(b).

**5.3 Services, Facilities and Property of the “Employer”:** (a) The “Employer” shall make available to the Consultant and its Personnel, for the purposes of the Services and **free of any charge**, the services, facilities and property described in Appendix E at the times and in the manner specified in said **Appendix E**.

(b) In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Appendix E, the Parties shall agree on any time extension that it may be appropriate to grant to the Consultant for the performance of the Services.

**5.4 Payment:** In consideration of the Services performed by the Consultant under this Contract, the “Employer” shall make to the Consultant such payments and in such manner as is provided by Clause GC 6 of this Contract.

## 6. PAYMENTS TO THE CONSULTANT

**6.1 Total Cost of the Services** (a) The total cost of the Services payable is set forth in Appendix D as per the consultant's proposal to the Employer and as negotiated thereafter.

(b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the amount specified in Appendix-D.

(c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to any of the Clauses GC 4.2 (c) or 5.2 hereof, the Parties shall agree that additional payments shall be made to the Consultant in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

**6.2 Currency of Payment:** All payments shall be made in Indian Rupees.

**6.3 Terms of Payment** The payments in respect of the Services shall be made as follows:

(a) The consultant shall submit the invoice for payment when the payment is due as per the agreed terms. The payment shall be released as per the work related milestones achieved and as per the specified percentage as per SC 10.

(b) Once a milestone is completed, the consultant shall submit the requisite deliverables as specified in this Contract. The Employer shall release the requisite payment upon acceptance of the deliverables. However, if the Employer fails to intimate acceptance of the deliverables or its objections thereto, within 30 days of receipt of it, the Employer shall release the payment to the consultant without further delay.

(c) Final Payment : The final payment as specified in SC 10 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 "Employer". The Services shall be deemed completed and finally accepted by the "Employer" and the final report and final statement shall be deemed approved by the "Employer" as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the "Employer" unless the "Employer", 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 Defect Liability period thus shall be 90 days from the date of submission of final bill & settlement for Activity -2 works. The Consultant shall thereupon promptly make any necessary corrections, and

thereafter the foregoing process shall be repeated. Any amount, which the "Employer" 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 "Employer" within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the "Employer" for reimbursement must be made within twelve (12) calendar months after receipt by the "Employer" of a final report and a final statement approved by the "Employer" in accordance with the above.

(d) For the purpose of payment under Clause 6.3 (b) above, acceptance means; acceptance of the deliverables by the Employer after submission by the consultant and the consultant has made

presentation to the Employer with / without modifications to be communicated in writing by the Employer to the consultant.

(e) If the deliverables submitted by the consultant are not acceptable to the Employer, reasons for such non-acceptance should be recorded in writing; the Employer shall not release the payment due to the consultant. This is without prejudicing the Employer's right to levy any liquidated damages under clause 9. In such case, the payment will be released to the consultant only after it re-submits the deliverable and which is accepted by the Employer.

(f) All payments under this Contract shall be made to the accounts of the Consultant specified in the SC.

(g) With the exception of the final payment under (c) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder, unless the acceptance has been communicated by the Employer to the consultant in writing and the consultant has made necessary changes as per the comments / suggestions of the Employer communicated to the Consultant.

(h) In case of early termination of the contract, the payment shall be made to the consultant as mentioned here with: (i) Assessment should be made about work done from the previous milestone, for which the payment is made or to be made till the date of the termination. The consultant shall provide the details of persons reasonably worked during this period with supporting documents. Based on such details, the remuneration shall be calculated based on the man month rate as specified.

(ii) A reasonable assessment of the reimbursable and miscellaneous expenses shall be made based on details furnished by the consultant in this regard with supporting documents and based on the assessment of the work done and the respective rates as provided. Wherever such an assessment is difficult, the rates should be arrived at by calculating the amount on pro-rata basis. The total amount payable shall be the amount calculated as per (i) and (ii) above plus any applicable tax.

## **7. FAIRNESS AND GOOD FAITH**

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

7.2 **Operation of the Contract:** The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

## **8. SETTLEMENT OF DISPUTES**

(a) Performance of the contract is governed by the term & conditions of the contract, in case of dispute arises between the parties regarding any matter under the contract, either party of the contract may send a written Notice of Dispute to the other party. The Party receiving the Notice of Dispute will consider the Notice and respond to it in writing within 30 days after receipt. If that party fails to respond within 30 days, or the dispute cannot be amicably settled within 60 days following the response of that party, clause GC 8.2 shall become applicable.

(b) If one of the parties fail to appoint its arbitrator in pursuance of sub-clause (a) above, within 30 days after receipt of the notice of the appointment of its Arbitrator by the other Party, or the Secretary of the Ministry / Department fails to appoint the Presiding arbitrator with a period of thirty days from the appointment of the two arbitrators, then the Institution of Engineers shall appoint the Arbitrator, or the Presiding Arbitrator, as the case may be.

(c) The International Centre for Alternative Dispute Resolution will provide administrative services in accordance with the ICADR Arbitration Rules, 1996.

In the case of dispute arising upon or in relation to or in connection with the contract between the Employer and the Consultant, which has not been settled amicably, any party can refer the dispute for Arbitration under (Indian) arbitration and Conciliation Act, 1996. Such disputes shall be referred to an Arbitral Tribunal consisting of 3 (three) arbitrators, one each to be appointed by the Employer and the Consultant, the third arbitrator shall be chosen by the two arbitrators so appointed by the parties and shall act as Presiding Arbitrator. In case of failure of the two arbitrators, appointed by the parties to reach a consensus regarding the appointment of the third arbitrator within a period of 30 days from the date of appointment of the two arbitrators, the Presiding arbitrator shall be appointed by the Secretary of the Ministry / Department. The Arbitration and Conciliation Act, 1996 and any statutory modification of re-enactment thereof, shall apply to these arbitration proceedings.

Arbitration proceedings shall be held in India at the place indicated in Special Conditions and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.

The decision of the majority of arbitrators shall be final and binding upon both parties. The expenses of the arbitrators as determined by the arbitrators shall be shared equally by the Employer and the Consultant. However, the expenses incurred by each party in connection with the preparation, presentation shall be borne by the party itself. All arbitration awards shall be in writing and shall state the reasons for the award.

## **9. LIQUIDATED DAMAGES**

9.1 The parties hereby agree that due to negligence of act of any party, if the other party suffers losses, damages the quantification of which may be difficult, and hence the amount specified hereunder shall be construed as reasonable estimate of the damages and both the parties agree to pay such liquidated damages, as defined hereunder as per the provisions of this Contract.

9.2 The amount of liquidated damages under this Contract shall not exceed 10% of the total value of the contract as specified in Appendix D.

9.3 The liquidated damages shall be applicable under following circumstances:

(a) The liquidated damages shall be levied only for the project components which are delayed in terms of contract. The LD amount shall be deducted from the final bill.

For the purpose of LD, the cost may be segregated into components viz. 1. Sea dredging at Sittwe port, 2. Fairway dredging & allied works in River Kaladan, 3. Port / IWT terminal at Sittwe, 4. IWT terminal at Kaletwa, 5. Vessels. The Cost of these components may be indicated in form FIN-2 – “Summary of Costs” at Page 32.

(b) If the deliverables are not submitted as per schedule as specified in SC 10, the Consultant shall be liable to pay 1% of the cost of the corresponding components for delay of each week or part thereof.

(c) If the deliverables are not acceptable to the Employer as mentioned in Clause 6.3 (c), and defects are not rectified to the satisfaction of the Employer within 30 days of the receipt of the notice, the Consultant shall be liable for Liquidated Damages for an amount equal to 1/2% of corresponding cost of the services for every week or part thereof for the delay.

## **10. MISCELLANEOUS PROVISIONS:**

- (i) “Nothing contained in this Contract shall be construed as establishing or creating between the Parties, a relationship of master and servant or principal and agent.
- (ii) Any failure or delay on the part of any Party to exercise right or power under this Contract shall not operate as waiver thereof.
- (iii) The Contractor/Consultant shall notify the Employer/ the Government of India of any material change in their status, in particular, where such change would impact on performance of obligations under this Contract.
- (iv) Each member/constituent of the Contractor/Consultant, in case of a consortium, shall be jointly and severally liable to and responsible for all obligations towards the Employer/Government for performance of works/services including that of its Associates/Sub Contractors under the Contract.
- (v) The Contractor/Consultant shall at all times indemnify and keep indemnified the Employer/Government of India against all claims/damages etc. for any infringement of any Intellectual Property Rights (IPR) while providing its services under the Project.
- (vi) The Contractor/Consultant shall at all times indemnify and keep indemnified the Employer/Government of India against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its (the Contractor’s/Consultant’s) employees or agents or by any other third Party resulting from or by any action, omission or operation conducted by or on behalf of the Contractor/Consultant.
- (vii) The Contractor/ Consultant shall at all times indemnify and keep indemnified the Employer/Government of India against any and all claims by Employees, Workman, Contractors, sub-contractors, suppliers, agent(s), employed engaged or otherwise working for the Contractor, in respect of wages, salaries, remuneration, compensation or the like.
- (viii) All claims regarding indemnity shall survive the termination or expiry of the Contract.
- (ix) It is acknowledged and agreed by all Parties that there is no representation of any type, implied or otherwise, of any absorption, regularization, continued engagement or concession or preference for employment of persons engaged by the (Contractor/Consultant) for any engagement, service or employment in any capacity in any office or establishment of the Government of India or the Employer.

### **III. Special Conditions of Contract:**

SC Clause	Ref. of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.	1.5	<p>The addresses are:</p> <p>1. Employer Inland Waterways Authority of India A-13, Sector-1 NOIDA (U.P-201301) Attention : Shri S.S. Pandian Facsimile : 2544009</p> <p>2. Consultant: Attention : Facsimile :</p>
2.	1.7	<p>Lead Partner is _____</p> <p>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 Clause SC 1.6 should be inserted here. If the Consultant consists only of one entity, this Clause SC 1.8 should be deleted from the SC.</p>
3.	1.8	<p>The Authorized Representatives are: For the “Employer”: Chief Engineer, IWAI For the Consultant:</p>
4.	2.1	<p>{The effectiveness conditions are the following: [insert conditions]}</p> <p>Note: List here any conditions of effectiveness of the Contract e.g., approved of the Contract by the Employer, “Employer’s” approval of Consultant’s proposals for appointment of specified key staff members, effectiveness of Employer Loan, receipt by Consultant of advance payment and by “Employer” of advance payment guarantee (see Clause SC 6.4(a)), etc. If there are no effectiveness conditions, delete this Clause SC 2.1 from the SC.</p>
5.	2.2	The time period shall be 21 days.
6.	2.3	The time period shall be 7 days.
7.	2.4	The time period shall be maximum 56 months
8.	2.9.2	This clause stands deleted.
9.	3.5	<p>The risks and the insurance coverage shall be as follows: (Note : Delete/modify whichever is not applicable)</p> <p>(a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Government’s country by the Consultant or its Personnel or any Sub-Consultants or their Personnel,</p> <p>(b) Third Party liability insurance,</p> <p>(c) Professional liability insurance to cover the employer against any loss suffered by the employer due to the professional service provided by the Consultant,</p>

(d) 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 India, 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, by theft, fire or any natural calamity.

10. 6.3 Since it is a lump-sum contracts payment will be made based on milestones indicated for each activity (Activity-1 and Activity-2) as below: No deduction from PMC agency's Bill towards Retention Money is envisaged.

**Activity 1:** Design & drawing, estimation, tendering and award of work contract. (20% of total consultancy cost)- 7 (seven) months

Sr. No	Milestone (Deliverables)	Time period for Submission from the date of signing of agreement	Payment (as % of the total service cost)
1.	On signing of agreement against bank guarantee valid for 7 months extendable at the discretion of IWAI, until selection of main contractor and Govt. entering into agreement with the main contractor.	0 months	10%
2.	Completion of reconciliation of DPR and submission of report with updated estimate.	2 months	2.5%
3.	Preparation of design, drawings, estimates, Bill of quantity etc. for sea dredging, Sittwe Port, IWT terminals at Sittwe and Kaletwa, fairway development (including river dredging) between Sittwe and Kaletwa, Vessels; tender document and tendering for selection of main contractor.	4 Months	5%
4.	Evaluation of bids, selection of main contractor and Govt. of India entering into agreement with the main contractor.	7 Months	2.5%
	<b>Total</b>	<b>7 Months</b>	<b>20%</b>

Activity 2:

Project Management & Construction Supervision (80% of Consultancy cost) of the work contract (maximum 49 months).

1. Charges for Mobilization of manpower, Establishment of office etc.: 10% of total consultancy charges on award of work against Bank Guarantee valid for 49 months, extendable at the discretion of IWAI until completion of the project and submission of completion report for the construction period.
2. Quarterly payment at the end of each quarter at 4% of consultancy charges subject to 25% financial progress in each year. In case, progress in less than 25%, the consultancy charges shall be paid proportionate to the financial progress of works till completion of the project.
3. Balance 6% on submission of completion report.

11. 8.3 The Arbitrator proceedings shall take place in New Delhi in India.

Binding signature of Employer Signed by \_\_\_\_\_  
(for and on behalf of the IWAI)

Binding signature of Contractor Signed by \_\_\_\_\_  
(for and on behalf of \_\_\_\_\_duly authorized vide Resolution  
No \_\_\_\_\_ dated \_\_\_\_\_ of the Board of Directors of \_\_\_\_\_)

In the presence of  
(Witnesses)

- 1.
- 2.

## **IV. Appendices**

## **APPENDIX A – DESCRIPTION OF SERVICES**

Note: This Appendix will include the final Terms of Reference worked out by the “Employer” and the Consultants during technical negotiations, dates for completion of various tasks, place of performance for different tasks/activities, specific tasks/activities/outcome to be reviewed, tested and approved by “Employer”, etc.

## **APPENDIX B - REPORTING REQUIREMENTS**

1. Execution of all Project Component in accordance with Central procedure and practice.
2. Monthly progress report (Physical & financial) in the format agreed by employer and consultant.
3. Making presentation on Project activities before Indian & Myanmar Authorities.

## **APPENDIX C – STAFFING SCHEDULE**

(Include here the agreed (negotiated staffing schedule including the engagement of sub-contractors, if any)

## **APPENDIX D – Total COST OF SERVICES IN**

(Include here the rates quoted in the financial proposal or the negotiated rates, whichever is applicable)

## **APPENDIX E - DUTIES OF THE “EMPLOYER”**

1. Copy of DPR prepared by M/s RITEs Ltd. during 2003
2. Entry & exit permits from India & Myanmar and vice versa for men and material / equipment.
3. Framework agreement signed between the Govt. of Republic of India and the Govt. of the Union of Myanmar for the construction and operation of a Multimodal Transit Transport facility on Kaladan river connecting the Sittwe Port in Myanmar with the State of Mizoram in India.