

**Government of India  
Ministry of Railways**

Global Tender No 2009/ RCF/RBL/Consultancy

**REQUEST FOR PROPOSAL**

**CONSULTANCY**

**FOR**

**Setting Up Rail Coach Factory at  
Rae Bareli  
By  
Indian Railways**

Railway Board  
Rail Bhavan, Raisina Road  
New Delhi - 110001  
India

## DISCLAIMER

The information contained in this Request for Proposal document (“**RFP**”) or subsequently provided to Applicants, whether verbally or in documentary or any other form by or on behalf of MOR or any of their employees or advisers, is provided to Applicants on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor invitation by MOR to the prospective Applicants or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their financial offers to assist in the formulation of their Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by MOR in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFP may not be appropriate for all persons, and it is not possible for MOR, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct in all respect. Each Applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Applicants is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. MOR accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

MOR, its employees and advisers make no representation or warranty and shall have no liability to any person including any Applicant under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in anyway in this Selection Process. MOR also accepts no liability of any nature whether resulting from negligence or otherwise however caused arising from reliance of any Applicant upon the statements contained in this RFP.

MOR may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP.

The issue of this RFP does not imply that MOR is bound to select an Applicant or to appoint the Selected applicant, as the case may be, for the Consultancy and MOR reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by MOR or any other costs incurred in connection with or relating to its Proposal. All such costs and expenses will remain with the Applicant and MOR shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Proposal, regardless of the conduct or outcome of the Selection Process.

## GLOSSARY

|                                  |  |
|----------------------------------|--|
| <b>Additional Costs</b>          | As in Item D of Form-2 of Appendix-II  |
| <b>Agreement</b>                 | As defined in Clause 1.2   |
| <b>Applicant</b>                 | As defined in Clause 2.1.1   |
| <b>Authorised Representative</b> | As defined in Clause 2.12.3 (iii)  |
| <b>BOQ</b>                       | Bill of Quantity   |
| <b>BOT</b>                       | Build Operate and Transfer   |
| <b>Conditions of Eligibility</b> | As defined in Clause 2.2.  |
| <b>Conflict of Interest</b>      | As defined in Clause 2.3.1   |
| <b>Consultancy</b>               | As defined in Clause 1.2   |
| <b>Consultancy Team</b>          | As defined in Clause 6.1 of Schedule-1   |
| <b>Consultant</b>                | As defined in Clause 1.2   |
| <b>CV</b>                        | Curriculum Vitae   |
| <b>Documents</b>                 | As defined in Clause 2.11  |
| <b>Effective Date</b>            | As defined in Clause 2.27  |
| <b>Eligible Applicant</b>        | As defined in Clause 2.2   |
| <b>Eligible Assignments</b>      | As defined in Clause 3.1.4   |
| <b>EPC</b>                       | Engineering Procurement and Construction   |
| <b>EPC Agreement</b>             | As defined in Clause 1.1.8   |
| <b>Expatriate Personnel</b>      | As defined in Clause 1.1.1(h) of Schedule-2  |
| <b>FA</b>                        | Form of Agreement as in Schedule -2  |
| <b>Financial Expert</b>          | As defined in Clause 2.1.3 & 2.2.2   |
| <b>Financial Proposal</b>        | As defined in Clause 2.14.1  |
| <b>INR, Re, Rs.</b>              | Indian Rupee   |
| <b>IR</b>                        | Indian Railways  |
| <b>Inception Report</b>          | As defined in Clause 3 (A) of Schedule-1   |
| <b>Key Date</b>                  | As defined in Clause 5.2 of Schedule-1   |
| <b>Key Personnel</b>             | As defined in Clause 2.1.3 & 2.2.2   |
| <b>Lead Member</b>               | As defined in Clause 2.1.1   |
| <b>Legal Expert</b>              | As defined in Clause 2.1.3 & 2.2.2   |
| <b>Legal Member</b>              | As defined in Clause 2.1.1   |
| <b>LOA</b>                       | Letter of Award  |
| <b>MOR</b>                       | As defined in Clause 1.1.8   |
| <b>MRTS</b>                      | Rail based Mass Rapid Transit System<br>(excluding light rail transits, mono rail, sky-bus and tramways) |
| <b>Personnel</b>                 | As defined in Clause 1.1.1(l) of Schedule-2  |
| <b>Production Unit</b>           | As defined in Clause 1.1.5   |

|                                 |   |
|---------------------------------|---|
| <b>Professional Personnel</b>   | As defined in Clause 2.13.6                 |
| <b>Proposal</b>                 | As defined in Clause 1.2                    |
| <b>Proposal Due Date or PDD</b> | As defined in Clause 1.8                    |
| <b>Procurement Expert</b>       | As defined in Clause 2.1.3 & 2.2.2          |
| <b>PPP</b>                      | Public Private Partnership                  |
| <b>Resident Personnel</b>       | As defined in Clause 1.1.1(n) of Schedule-2 |
| <b>RFP</b>                      | As defined in Disclaimer                    |
| <b>Rolling Stock Expert</b>     | As defined in Clause 2.1.3 & 2.2.2          |
| <b>Mechanical Expert</b>        | As defined in Clause 2.1.3 & 2.2.2          |
| <b>Selection Process</b>        | As defined in Clause 1.6                    |
| <b>Statutory Auditor</b>        | An Auditor appointed under Applicable Laws  |
| <b>Structural Expert</b>        | As defined in Clause 2.1.3 & 2.2.2          |
| <b>PPP Expert</b>               | As defined in clause 2.1.3 & 2.2.2          |
| <b>Support Personnel</b>        | As defined in Clause 2.13.6                 |
| <b>TOR</b>                      | Terms of Reference as in Schedule - I       |
| <b>Technical Proposal</b>       | As defined in Clause 2.13                   |
| <b>US\$</b>                     | United States Dollar                        |

The words and expressions beginning with capital letters and defined in this document shall, unless the context otherwise requires, have the meaning ascribed thereto herein.

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## **1. INTRODUCTION**

### **1.1 Background**

- 1.1.1 Indian Railways (the “**IR**”) is the dominant carrier of long distance passengers in India. With a network spanning about 64,000 route kilometers and carrying more than 5 billion passengers, IR is the largest carrier of passengers in the world.
- 1.1.2 India has experienced rapid economic growth in the recent years. Although there has been some slowdown in the just concluded financial year, India’s GDP grew at an average annual rate of more than 9% in the previous two years. In line with the overall economic growth in the country during the recent past, IR has witnessed a decent growth in its passenger business. An average of about 50 passenger carrying trains are being added each year, considerably raising the demand for additional coaches.
- 1.1.3 Rail transportation in India has been historically characterized by supply side constraints. Various initiatives have been taken recently to augment its transportation capacity. So far, IR has been meeting its requirement of coaches mostly through in-house Production Units - Integral Coach Factory (ICF) at Chennai with a manufacturing capacity of 1300 coaches and Rail Coach Factory (RCF) at Kapurthala with a manufacturing capacity of 1400 coaches. The manufacturing capacity of each of these Units will be augmented to 1500 coaches in about 18 months time, works for which are currently under progress.
- 1.1.4 In-house manufacturing capacity, to a limited extent, is supplemented by BEML, Bangalore and Jessops, Calcutta. Orders have also been placed on private players for supply of EMUs.
- 1.1.5 The existing manufacturing capacity within the country is not able to meet current and projected growth in passenger business and it has become necessary to set up an additional Rail Coach Factory. The Cabinet has given its approval for setting up a Departmental Production Unit at Rae Bareli (the “**Production Unit**”) with a manufacturing capacity of 1000 coaches per annum.
- 1.1.6 Till recently, ICF and RCF were manufacturing coaching stock based on transfer of technology from Schlerien Car Co. Switzerland half a century ago. While these coaches served the requirement of low speed operation upto 110 kmph well, the obsolete design could not meet the challenges of high speed operation.



- 1.1.7 RCF has started manufacture of LHB-Alstom coaches, which are cleared for an operational speed of 160 kmph and have the potential for upgrade to 200kmph. Technology for these coaches was acquired through ToT Agreement.
- 1.1.8 **Ministry of Railways (the MOR) has decided to set up the Production Unit at Rae Bareli on a turn key basis through an EPC contract (the “EPC Agreement”) to manufacture LHB design coaches. The EPC contractor, to be selected through international competitive bid, will be required to build Production Unit for manufacturing 1000 coaches per annum, including a township for providing residential accommodation and essential utilities to the officers and staff of the factory, as per the design prepared by the Consultant, and transfer it to Indian Railways after capacity proving.**
- 1.1.9 While Coaches manufactured in the new Coach factory will primarily be of LHB-Alstom design, MOR will separately acquire new technology in areas such as double-decker coaches, air suspension bogie, coupler and Self Propelled Accident Relief Train (SPART) through a Procurement-cum-ToT Contract (the **Procurement-cum-ToT Agreement**). The technology so acquired will be used in this or any other Production Unit of Indian Railways.
- 1.1.10 Ministry of Railway have also decided to outsource some of the activities to reputed contractors on the basis of a long term BOT Contract (the **BOT Agreement**).
- 1.1.11 MOR will make available to the Consultant its own Detailed Estimate for reference and use and will facilitate visit to its existing production units for collecting such information/details as may be necessary for the consultancy assignment.

## **1.2 Request for Proposal**

MOR now invites proposals (the “**Proposal**”) for engaging a consortium of firms (the “**Consultant**”) to provide consultancy services for drafting of Request for Proposal for invitation of bids for the **EPC, BOT and Procurement-cum-ToT Agreements**, (the “**Bid Documents**”) for setting up the **Production Unit** and Evaluation of Bids received in response thereof.. The Consultant will be required to design the **Production Unit** including township, with detailed civil engineering construction design/drawing, factory lay out, manufacturing processes, M&P, specifications, jigs and fixtures, tooling, material handling equipment etc, and prepare Detailed Project Report, Detailed Estimate and BOQ. The Consultant will also be required to assist MOR during the bid processes

for **EPC, BOT and Procurement-cum-ToT Agreements** in accordance with the Term of Reference (the “**Consultancy**”).

MOR intends to select the Consultant through an international competitive bidding process in accordance with the procedure set out herein.

**1.3 Due diligence by Applicants**

Applicants are encouraged to inform themselves fully about the assignment and the local conditions before submitting the Proposal, by sending written queries to MOR.

**1.4 Availability and Cost of RFP Document**

The cost of RFP document for the Consultancy herein is Rs. 20,000INR (Indian rupees twenty thousand). The document may be purchased from Chief Project Manager, RCF/RBL Project, Old TA Building, Kishanganj, Delhi-110007 (India) on a working day between 10 hrs and 16:30 hrs by paying the cost of the document through a non-refundable demand draft in favour of FA&CAO/RCF, Rae Bareli payable at Delhi. The document may also be downloaded from website [www.indianrailways.gov.in](http://www.indianrailways.gov.in) or [www.rcfraebareli.com](http://www.rcfraebareli.com) and cost of the document reimbursed to MOR by submitting a demand draft in favour of FA&CAO/RCF, Rae Bareli payable at Delhi, along with the Proposal.

**1.5 Validity of the Proposal**

The Proposal shall be valid for a period of not less than 120 days from the Proposal Due Date (the “**PDD**”).

**1.6 Brief description of the Selection Process**

MOR has adopted a single stage selection process (collectively the “**Selection Process**”) in evaluating the Proposals. The technical evaluation of the Proposals will be carried out as specified in Clause 3.1. Based on this technical evaluation, a list of short-listed applicants shall be prepared as specified in Clause 3.2. The financial evaluation will be carried out as specified in Clause 3.3. Proposals will finally be ranked according to their combined technical and financial scores as specified in Clause 3.4.

**1.7 Currency conversion rate**

For the purpose of technical evaluation of bids (i.e. for assigning value to eligible assignments etc), Rs. 50 per US \$ shall be considered as the applicable currency conversion rate. All payments, however, shall be made in INR, in accordance with the bid submitted by the Applicant, and the exchange risk, if any, shall be borne by the Applicant.

## **1.8 Schedule of Selection Process**

MOR would endeavour to adhere to the following schedule:

| <b>Event Description</b>                          | <b>Estimated Date</b> |
|---|-----------------------|
| 1. Last date for receiving queries/clarifications | 05.10.2009            |
| 2. Pre-Proposal Conference                        | 08.10.2009            |
| 3. MOR response to queries                        | 15.10.2009            |
| 4. Proposal Due Date or PDD                       | 23.11.2009            |

## **1.9 Communications**

- 1.9.1 All communications including the submission of Proposal should be addressed to:

CHIEF PROJECT MANAGER  
RCF/RBL PROJECT  
OLD TA BUILDING  
KISHANGANJ,  
DELHI-110007 (India)  
Phone:+91-11-23695824 Fax:+91-11-23695824  
Email:cpmrcfrbl@gmail.com

- 1.9.2 All communications, including the envelopes, should contain the following information, to be marked at the top in bold letters:

Global Tender No. 2009/ /RCF/RBL/Consultancy

CONSULTANCY FOR SETTING UP DEPARTMENTAL  
PRODUCTION UNITS BY MINISTRY OF RAILWAYS FOR  
MANUFACTURING COACHES

## **2. INSTRUCTIONS TO APPLICANTS**

### **A. GENERAL**

#### **2.1 Scope of Proposal**

- 2.1.1 Detailed description of the objectives, scope of services, deliverables and other requirements related with this Consultancy are specified in this RFP.

In case an applicant firm considers that it possesses the requisite experience and the capabilities required for undertaking the Consultancy, it must form a Consortium with an Indian law firm fulfilling the Technical Capacity criterion specified in Clause 2.2.2 (E) (the “**Legal Member**”). An applicant firm may also associate with other Consultancy firms to form a Consortium to complement their respective area of expertise or for other reasons and shall constitute the Applicant for the purpose of this RFP. The Consortium should nominate one of the members as lead member of the consortium of firms (the “**Lead Member**”) in response to this invitation. The term applicant (the “**Applicant**”) means the Lead Member of the Consortium. The manner in which the Proposal is required to be submitted, evaluated and accepted is explained in this RFP.

- 2.1.2 Applicants are advised that the selection of Consultant shall be on the basis of an evaluation by MOR through the Selection Process specified in this RFP. Applicants will be deemed to have understood and agreed that no explanation or justification of any aspect of the Selection Process will be given and that MOR’s decisions are without any right of appeal whatsoever.

2.1.3 **Key Personnel**

The Consultancy Team shall consist of the following key personnel (the “**Key Personnel**”) who shall discharge their respective responsibilities as specified below:

| Key Personnel                           | Responsibilities   |
|---|--|
| <b>Procurement Expert (Team Leader)</b> | He will lead, co-ordinate and supervise the multidisciplinary team for preparation of the Bid Documents for EPC Agreement., BOT Agreements and Procurement-cum-ToT Agreement and evaluation of bids received for EPC Agreement, BOT Agreements and Procurement-cum-ToT Agreement.<br>He shall devote at least 25 working days in Delhi, as per the agreed program, and shall be available for consultation with MOR officials. |
| <b>Rolling Stock Expert</b>             | He will be responsible for preparation of the Bid Documents and evaluation of bids received on the basis of design/deliverables stipulated in the RFP document for selection of an EPC/BOT   |

|                                 |  |
|---------------------------------|--|
|                                 | <p>contractor and technology provider for Procurement-cum-ToT contract.</p> <p>He shall devote at least 25 working days in Delhi, as per agreed program, and shall be available for consultation with MOR officials.</p>   |
| <b>Mechanical Expert</b>        | <p>He will be responsible for designing/specifying mechanical aspects of the factory including manufacturing processes, M&amp;P with specification, lay-out, jigs and fixtures, material handling equipment and special tooling required for the Production Unit.</p> <p>He shall devote at least 25 working days in Delhi, as per agreed program, and shall be available for consultation with MOR officials.</p>   |
| <b>Civil Engineering Expert</b> | <p>He will be responsible for designing and evaluating civil engineering aspects of the factory and the township, including architectural design and drawing of buildings, flooring, roofing, sanitation, drainage, roads, water supply, landscaping, aesthetics, eco-park, pollution control&amp; energy saving measures etc. He shall be available at least for 25 working days as per the agreed program and shall be available for consultation with MOR officials/nominees.</p> |
| <b>Structural Expert</b>        | <p>He will be responsible for designing civil engineering structural work taking into account the soil testing report and will prepare Bill of Quantity for all engineering structural work. He shall devote at least 25 working days in Delhi, as per agreed program, and shall be available for consultation with MOR officials.</p>   |
| <b>Legal Expert</b>             | <p>He will be responsible for drafting of the Bid Document and legal aspects of EPC, BOT and Procurement-cum-ToT Agreements.</p> <p>He shall be available at Delhi for the entire duration for this Consultancy Assignment and shall be available for consultation with MOR officials.</p>   |

|                         |   |
|-------------------------|---|
| <b>Financial Expert</b> | He will be responsible for preparation of bid evaluation criterion, detailed estimates, BOQ and other financial aspects of the Bid Documents for setting up <b>Production Unit</b> including the township.<br>He shall devote at least 15 working days in Delhi, as per agreed program, and shall be available for consultation with MOR officials. |
| <b>PPP/BOT Expert</b>   | He will be responsible for drafting BOT Agreements for outsourcing of some of the Production Unit activities and Procurement-cum-ToT Agreement . He shall devote at least 25 days in Delhi and shall be available for consultations with MOR officials.   |

## 2.2 Conditions of Eligibility of Applicants

2.2.1 Applicants must read carefully the Conditions of Eligibility criteria (the “**Conditions of Eligibility**”) provided herein. Proposals of only those Applicants who satisfy the Conditions of Eligibility (the “**Eligible Applicants**”) will be considered for evaluation.

2.2.2 To be eligible for evaluation of its Proposal, the Applicant shall fulfil the following:

- (A) **Technical Capacity:** The Applicant shall have, over the past 10 (ten) years, preceding the Proposal Due Date, undertaken a minimum of one Eligible Assignment.
- (B) **Financial Capacity:** The Applicant shall have received a minimum income (Professional Fee) of US\$ 10 million or Rs. 50 crore per annum during each of the three years preceding the Proposal Due Date.
- (C) **Availability of Key Personnel:** The Applicant shall offer and make available Key Personnel who fulfill the requirements specified in Sub-clause (D) below.
- (D) **Conditions of Eligibility criteria for Key Personnel:** Each of the Key Personnel must fulfill the minimum Conditions of Eligibility criteria specified below:

| <b>Key Personnel</b>                | <b>Educational Qualification</b>                             | <b>Length of Professional Experience</b> | <b>Experience on Eligible Assignments</b>  |
|-------------------------------------|--|--|--|
| Procurement Expert<br>(Team Leader) | Bachelor in Engineering/<br>Law/<br>Management or equivalent | 15 years                                 | He should have led or participated as procurement expert in the advisory teams for one relevant Eligible Assignment. |
| Rolling stock Expert                | Bachelor in Mechanical Engineering                           | 10 years                                 | He should have participated as Rolling Stock Expert for one relevant Eligible Assignment.                            |
| Mechanical Expert                   | Bachelor in Mechanical Engineering                           | 10 years                                 | He should have participated as Rolling Stock Expert for one relevant Eligible Assignment.                            |
| Legal Expert                        | Bachelor in Law  | 10 years                                 | He should have participated as Legal Expert for one relevant Eligible Assignment.                                    |

|                          |   |          |   |
|--------------------------|---|----------|---|
| Financial Expert         | Master of Business Administration in Financial Management/Chartered Accountancy | 10 years | He should have participated as Financial Expert for one relevant Eligible Assignment.         |
| Structural Expert        | Bachelor in Civil Engineering   | 10 years | He should have participated as Structural Expert for one relevant Eligible Assignment.        |
| Civil Engineering Expert | Bachelor of Civil Engineering   | 10 years | He should have participated as Civil Engineering Expert for one relevant eligible assignment. |
| PPP/BOT Expert           | Bachelor in Engineering/<br>Law/<br>Management or equivalent                    | 10 years | He should have participated as PPP/BOT Expert in one relevant Eligible Assignment             |

**(E) Technical Capacity for Legal Member:** The Legal member shall have, over the past 10 (ten) years, preceding the Proposal Due Date, undertaken a minimum of one relevant Eligible Assignment.



- 2.2.3 The Applicant shall enclose with its Proposal, certificate(s) from its Auditors<sup>1</sup> stating its revenues from professional fees during the past three years and the payments received in respect of each of the Eligible Assignment specified in the Proposal.
- 2.2.4 The Applicant should submit a Power of Attorney, as per the format at Form – 4 of Appendix-I, authorizing the signatory of the Proposal to commit the Applicant. In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at Form – 3 of Appendix – I.
- 2.2.5 Any entity which has been barred by the Central / State Government in India, or any entity controlled by them, from participating in any project, and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal.
- 2.2.6 While submitting a Proposal, the Applicant should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Applicants may format the specified forms making due provision for incorporation of the requested information.

### **2.3 Conflict of Interest**

- 2.3.1 An Applicant shall not have a conflict of interest (the “**Conflict of Interest**”), as specified in this clause 2.3 or otherwise. Any Applicant found to have a Conflict of Interest shall be disqualified.
- 2.3.2 MOR requires that the Consultant provide professional, objective, and impartial advice and at all times hold MOR’s interests paramount, avoid conflicts with other assignments or their own corporate interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other employers, or that may place it in a position of not being able to carry out the assignment in the best interests of MOR.
- 2.3.3 Without limiting the generality of the above, an Applicant shall be considered to have a Conflict of Interest that affects the Selection Process, if:
  - (i) such Applicant (or any constituent thereof) and any other Applicant (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this qualification shall not apply in cases where the direct or indirect shareholding in an Applicant or

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<sup>1</sup> No separate annual financial statements should be submitted.

a constituent thereof in the other Applicant(s) (or any of its constituents) is less than 1% of its paid up and subscribed capital; or

- (ii) a constituent of such Applicant is also a constituent of another Applicant; or
- (iii) such Applicant receives or has received any direct or indirect subsidy from any other Applicant, or has provided any such subsidy to any other Applicant; or
- (iv) such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Application of either or each of the other Applicant; or
- (v) If there is a conflict among this and other consulting assignments of the Consultant (including its personnel) and any subsidiaries or entities controlled by such Consultant. The duties of the Consultant depend on the circumstances of each case. While providing consultancy services to MOR for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment.
- (vi) A firm, and any of its affiliates, which has been engaged by MOR to provide goods or works for a project, will be disqualified from providing consulting services for the same project. Conversely, a firm hired to provide consulting services for the preparation of implementation of a project, and any of its affiliates, will be disqualified from subsequently providing goods or works or services related to the same project.

2.3.4 An Applicant, as well as any of its affiliates, eventually appointed to provide Consultancy for this assignment shall be disqualified from subsequently providing goods or works or services related to the construction and execution of the same Project (other than a continuation of the firm's earlier consulting services) till six months after issuance of Letter of Award to the Successful Bidder, assistance for whose selection / bid process was provided by the Consultant, and any breach of this obligation shall be construed as Conflict of Interest.

## **2.4 Number of Proposals**

An Applicant is eligible to submit only one Application for the Consultancy. An Applicant applying individually or as a member of a Consortium shall not be entitled to submit another application either individually or as a member of any Consortium, as the case may be. Non-compliance of this requirement will make both the offers non-responsive.

## **2.5 Cost of Proposal**

The Applicant shall be responsible for all of the costs associated with the preparation of their Proposals and their participation in the Selection Process. MOR will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

## **2.6 Certain Representations of the Applicant**

2.6.1 It shall be deemed that by submitting the Proposal, the Applicant has:

- (a) made a complete and careful examination of the RFP;
- (b) received all relevant information requested from MOR; and
- (c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of MOR .
- (d) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the RFP shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Agreement; and
- (e) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.6.2 MOR shall not be liable for any omission, mistake or error on the part of the Applicant in respect of any of the above or on account of any matter arising out of or concerning or relating to RFP or the Selection Process, including any error or mistake therein or in any information or data given by MOR.

## **2.7 Right to accept and to reject any or all Proposals**

2.7.1 Notwithstanding anything contained in this RFP, MOR reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

2.7.2 MOR reserves the right to reject any Proposal if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Applicant does not provide, within the time specified by MOR, the supplemental information sought by MOR for evaluation of the Proposal.

Such misrepresentation/improper response would lead to the disqualification of the Applicant. If the Applicant is a consortium, then the entire consortium would be disqualified/rejected. If such disqualification/rejection occurs after the Proposals have been opened and the highest ranking Applicant gets disqualified/rejected, then MOR reserves the right to:

- (i) consider the next best Applicant; or
- (ii) take any such measure as may be deemed fit in the sole discretion of MOR, including annulment of the Selection Process.

**B. DOCUMENTS**

**2.8 Contents of the RFP**

2.8.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.10:

**Request for Proposal**

- 1 Introduction
- 2 Instructions to Applicants
- 3 Criteria for Evaluation
- 4 Fraud and corrupt practice
- 5 Pre-Proposal Conference
- 6 Miscellaneous

**Schedules**

- 1. Terms of Reference

2. Form of Agreement  
Annex-1: Terms of Reference  
Annex-2: Deployment of Personnel  
Annex-3: Cost of Services  
Annex-4: Payment Schedule  
Annex-5: Bank Guarantee for Performance Security

## **Appendices**

### **Appendix-I: Technical Proposal**

- Form 1: Letter of Proposal
- Form 2: Particulars of the Applicant
- Form 3: Statement of Legal Capacity
- Form 4: Power of Attorney
- Form 5: Financial Capacity of Applicant
- Form 6: Particulars of Key Personnel
- Form 7: Proposed Methodology and Work Plan
- Form 8: Experience of Applicant
- Form 9: Experience of Key Personnel
- Form 10: Eligible Assignments of Applicant
- Form 11: Eligible Assignments of Key Personnel
- Form 12: CV of Professional Personnel

### **Appendix - II Financial Proposal**

- Form 1: Covering Letter
- Form 2: Financial Proposal

## **2.9 Clarifications**

- 2.9.1 Applicants requiring any clarification on the RFP may notify the Authority in writing or by fax and e-mail in accordance with Clause 1.9. They should send in their queries before the date mentioned in the Schedule of Selection Process specified in Clause 1.8.

The envelopes shall clearly bear the following identification:

"Queries/Request for Additional Information concerning RFP"

MOR would endeavour to respond to the queries not later than 7 days before Proposal Due Date. The responses will be sent by fax or e-mail.

- 2.9.2 MOR shall endeavour to respond to the queries raised or clarifications sought by the Applicants. However, MOR reserves the right not to respond to any question or provide any clarifications, in its sole discretion, and nothing in this clause shall be taken or read as compelling or requiring MOR to respond to any question or to provide any clarification.
- 2.9.3 MOR may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Applicants. All clarifications and interpretations issued by MOR shall be deemed to be part of the RFP. Verbal clarifications and information given by MOR or its employees or representatives shall not in any way or manner be binding on MOR.

## **2.10 Amendment of RFP**

- 2.10.1 At any time, prior to the deadline for submission of Proposal, MOR may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFP by the issuance of Addendum.
- 2.10.2 Any addendum thus issued will be sent in writing to all Applicants invited by MOR to submit their Proposals in terms of this RFP, besides posting them on website.
- 2.10.3 In order to afford the Applicants a reasonable time for taking an Addendum into account, or for any other reason, MOR may, at its own discretion, extend the Proposal Due Date.

## **C. PREPARATION AND SUBMISSION OF PROPOSAL**

### **2.11 Language**

The Proposal with all accompanying documents (the “**Documents**”) and all communications in relation to or concerning the Selection Process shall be in English Language and strictly on the forms provided in this RFP. No supporting document or printed literature shall be submitted with the

Proposal unless specifically asked for and in case any of these documents is in another language, it must be accompanied by an accurate translation of the relevant passages in English, in which case, for all purposes of interpretation of the Proposal, the translation in English shall prevail.

## **2.12 Format and signing of Proposal**

2.12.1 The Applicant shall provide all the information sought under this RFP. MOR would evaluate only those Proposals that are received in the specified forms and complete in all respects.

2.12.2 The Applicant shall prepare and submit only one original set of the Documents.

2.12.3 The Proposal shall be typed or written in indelible ink and signed by the authorized signatory of the Applicant who shall initial each page, in blue ink. All the alterations, omissions, additions, or any other amendments made to the Proposal shall be initialed by the person(s) signing the Proposal. The Proposals must be properly signed as detailed below:

- (i) by the proprietor, in case of a proprietary firm;
- (ii) by the partner holding the Power of Attorney, in case of a partnership firm; and
- (iii) by a duly authorised person of the Lead Member (the “**Authorised Representative**”) holding the Power of Attorney.

2.12.4 Applicants should note the Proposal Due Date, as specified in Clause 1.8, for submission of Proposals. Applicants are reminded that no supplementary material will be entertained by MOR, and that evaluation will be carried out only on the basis of Documents received by the closing time of Proposal Due Date as specified in Clause 2.16.1. Applicants will normally not be asked to provide additional material information or documents subsequent to the date of submission, and such unsolicited material if submitted will be summarily rejected.

## **2.13 Technical Proposal**

2.13.1 The Technical Proposal should be submitted in the format at Appendix-I (the “**Technical Proposal**”).

2.13.2 While submitting the Technical Proposal, the Applicant shall, in particular, ensure that:

- (a) CVs of all Professional Personnel have been submitted;
- (b) Key Personnel have been proposed only if they meet the Eligibility criteria laid down at Clause 2.2.2(C & D) of the RFP;

- (c) no alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished;
  - (d) the CVs have been recently signed in blue ink by the Key Personnel and countersigned by the Applicant. Photocopy or unsigned / countersigned CVs shall be rejected;
  - (e) the CVs shall contain an undertaking from the Key Personnel about their availability for the duration specified in the RFP; and
  - (f) the Key Personnel proposed have a good working knowledge of English language.
- 2.13.3 Failure to comply with the requirements spelt out in this Clause 2.13 shall make the Proposal liable to be rejected.
- 2.13.4 If an individual Key Personnel makes an averment regarding his qualification, experience, age, and it turns out to be false, or his commitment regarding availability for the project is not fulfilled at any stage after signing of the Agreement, he shall be debarred for any future assignment in Indian Railways. The award of this Consultancy to the Applicant shall also be liable to cancellation in such an event.
- 2.13.5 **The Technical Proposal must not include any financial information.**
- 2.13.6 The proposed team shall be composed of experts and specialists (the “**Professional Personnel**”) in their respective areas of expertise and managerial/support staff (the “**Support Personnel**”) such that the Consultant should be able to complete the Consultancy within the specified time schedule. The Key Personnel specified in Clause 2.1.3 shall be included in the proposed team of Professional Personnel. Other competent and experienced Professional Personnel in the relevant areas of expertise must be added as required for successful completion of this Consultancy. The CV of each such Professional Personnel should also be submitted in the format at Form-12 of Appendix-I.
- 2.13.7 MOR reserves the right to verify all statements, information, and documents, submitted by the Applicant in response to the RFP. Failure of MOR to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.
- 2.13.8 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has



given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the LOA or entering into of the Agreement, and if the Applicant has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Consultant, without the Authority being liable in any manner whatsoever to the Applicant or Consultant, as the case may be.

## **2.14 Financial Proposal**

- 2.14.1 The financial proposal shall be submitted in the format at Appendix-II (the “**Financial Proposal**”) clearly indicating the total cost of the Consultancy (Item E of Form-2) in both figures and words, in Indian Rupees, and signed by the Applicant’s authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
- 2.14.2 While submitting the Financial Proposal, the Applicant shall ensure the following:

- (i) All the costs associated with the assignment shall be included in the Financial Proposal. These shall normally cover remuneration for all the Personnel (Expatriate and Resident, in the field, office etc), accommodation, local transportation, equipment, printing of documents etc. Air fare will be reimbursed at actual, subject to a ceiling of full economy class fare. The total amount indicated in the Financial Proposal shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non-responsive and liable to be rejected.
- (ii) The Financial Proposal shall take into account all expenses and tax liabilities except those specified in Item D II of Form -2 at Appendix-II.
- (iii) Costs shall be expressed in INR.

## **2.15 Submission of Proposal**

- 2.15.1 The Applicants shall submit the Proposal in hard stitched bound form with all pages numbered serially and by giving an index of submissions. Each

page of the submission shall be signed by the Authorized Representative of the Applicant.

- 2.15.2 The Proposal will be sealed in an outer envelope which will bear the address of MOR, RFP Notice no., Consultancy name as indicated at Clause 1.9.2 and the name and address of the Applicant. It shall bear on top, the following:

**“Do not open, except in presence of the Tender Committee”**

If the envelope is not sealed and marked as instructed above, MOR assumes no responsibility for the misplacement or premature opening of the contents of the Proposal submitted.

- 2.15.3 This outer envelope will contain two separate sealed envelopes, one clearly marked **‘Technical Proposal’** and the other clearly marked **‘Financial Proposal’**.
- 2.15.4 The Technical Proposal and Financial Proposal shall be typed or written in indelible ink and signed by the Authorised signatory of the Applicant. All pages of the original Technical Proposal and Financial Proposal must be numbered and initialed by the person or persons signing the Proposal.
- 2.15.5 The completed Proposal must be delivered on or before the specified time on Proposal Due Date.
- 2.15.6 The Proposal shall be made in the Forms specified in this RFP. Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents. No separate documents like printed annual statements, company brochures, copy of contracts etc. will be entertained.
- 2.15.7 Proposals submitted by fax, telex, telegram or e-mail shall not be entertained.
- 2.15.8 The rates quoted shall be firm throughout the period of performance of the assignment and discharge of all obligations of the Consultant under the Agreement.

**2.16 Proposal Due Date**

- 2.16.1 Proposal should be submitted before 1100 hrs on the Proposal Due Date at the address provided in Clause 1.9.1 in the manner and form as detailed in this RFP.
- 2.16.2 MOR may, in its sole discretion, extend the Proposal Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Applicants.

**2.17 Late Proposals**

Proposals received by MOR after the specified time on Proposal Due Date shall not be eligible for consideration and shall be summarily rejected.

**2.18 Modification/ substitution/ withdrawal of Proposals**

2.18.1 The Applicant may modify, substitute, or withdraw its Proposal after submission, provided that written notice of the modification, substitution, or withdrawal is received by MOR prior to Proposal Due Date. No Proposal shall be modified, substituted, or withdrawn by the Applicant on or after the specified time on Proposal Due Date.

2.18.2 The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.15.2, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

2.18.3 Any alteration / modification in the Proposal or additional information material supplied subsequent to the Proposal Due Date, unless the same has been expressly sought for by MOR, shall be disregarded.

**2.19 Bid Security**

2.19.1 The Applicant shall furnish as part of its Proposal, a bid security of Rs. 200,000 (two lakh) in the form of a Demand Draft issued by one of the Nationalised/ Scheduled Banks in India in favour of FA&CAO/RCF, Rae Bareli, payable at Delhi (the “**Bid Security**”), returnable not later than 30 (thirty) days from PDD except in case of the highest ranked Applicants. The Selected Applicant’s Bid Security shall be returned, upon the Applicant signing the Agreement and completing the Deliverables assigned to it for the first 2 (two) months of the Consultancy in accordance with the provisions thereof.

2.19.2 Any Bid not accompanied by the Bid Security shall be rejected by the Authority as non-responsive.

2.19.3 The Authority shall not be liable to pay any interest on the Bid Security and the same shall be interest free.

2.19.4 The Applicant, by submitting its Application pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the Authority’s any other right or remedy hereunder or in law or otherwise, the Bid Security shall be forfeited and appropriated by the Authority as the mutually agreed pre-estimated compensation and damage payable to the Authority for, *inter alia*, the time, cost and effort of the Authority in regard to the RFP including the consideration and evaluation of the Proposal under the following conditions:

- (a) If an Applicant engages in any of the Prohibited Practices specified in Section 4 of this RFP;
- (b) If an Applicant withdraws its Proposal during the period of its validity as specified in this RFP and as extended by the Applicant from time to time;
- (c) In the case of the Selected Applicant, if the Applicant fails to reconfirm its commitments during negotiations as required vide Clause 2.22.1;
- (d) In the case of a Selected Applicant, if the Applicant fails to sign the Agreement or commence the assignment as required vide Clause 2.27 & Clause 2.28.

## **D. EVALUATION PROCESS**

### **2.20 Evaluation of Proposals**

2.20.1 MOR shall open the Proposals at 11.30 hours on the Proposal Due Date, at the place specified in Clause 1.9.1 and in the presence of the Applicants who choose to attend. The packets marked “Technical Proposal” shall be opened first. The packet marked “Financial Proposal” shall be kept sealed for opening at a later date.

2.20.2 MOR shall subsequently examine and evaluate the Proposals in accordance with the provisions set out in Section 3.

2.20.3 To facilitate evaluation of Proposals, MOR may, at its sole discretion, seek clarifications in writing from any Applicant regarding its Proposal.

2.20.4 Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.18 shall not be opened.

#### **2.20.5 Tests of responsiveness**

Prior to evaluation of Proposals, MOR will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if the Proposal:

- (a) is received as per the Form-I at Appendix-1 (Technical Proposal) and Form-II at Appendix-II (Financial Proposal);
- (b) is received by the Proposal Due Date including any extension thereof pursuant to Clause 2.16.2;
- (c) is signed, sealed and marked as stipulated in Clause 2.12.3 and 2.15;
- (d) is accompanied by the Power(s) of Attorney as specified in Clause 2.2.4;

- (e) contains all the information/documents (complete in all respects) including bid security and cost/proof of purchase of RFP document, as requested in the RFP;
- (f) contains information in the formats specified in this RFP; and
- (g) does not contain any condition or qualification;
- (h) the CVs have been recently signed in blue ink by the Key Personnel and countersigned by the Applicant. Photocopy or unsigned / countersigned CVs shall be rejected; and
- (i) is not non-responsive in terms hereof.

2.20.6 MOR reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by MOR in respect of such Proposals.

2.20.7 MOR would subsequently examine and evaluate Proposals in accordance with the Selection Process specified at Clause 1.6 and the criteria set out in Section 3 of this RFP.

2.20.8 After the technical evaluation, MOR would prepare a list of pre-qualified Applicants in terms of Clause 3.2 for opening of their Financial Proposals. A date, time and venue will be notified to all Applicants for announcing the result of evaluation and opening of Financial Proposals. Before opening of the Financial Proposals, the list of pre-qualified Applicants along with their Technical Score will be read out. The opening of Financial Proposals shall be done in presence of respective representatives of Applicants who choose to remain present. MOR will not entertain any query or clarification from Applicants who fail to qualify at any stage of Selection Process. The financial evaluation and final ranking of the Proposals would be carried out in terms of Clause 3.3 and 3.4.

2.20.9 Applicants are advised that selection will be entirely at the discretion of MOR. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Selection Process or selection will be given.

2.20.10 Any information contained in the Proposal shall not in anyway be construed as binding on MOR, its agents, successors or assigns, but shall be binding against the Applicant if any Consultancy is subsequently awarded to it under the Selection Process on the basis of such information.

2.20.11 MOR reserves the right not to proceed with the Selection Process any time without notice or liability and to reject any Proposal without assigning any reasons.

## **2.21 Confidentiality**

Information relating to the examination, clarification, evaluation, and recommendation for the selection of Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising MOR in relation to, or matters arising out of, or concerning the Selection Process. MOR will treat all information submitted as part of the Proposal, in confidence and will require all those who have access to such material to treat the same in confidence. MOR may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/or MOR.

## **2.22 Clarifications**

- 2.22.1 To facilitate evaluation of Proposals, MOR may, at its sole discretion, seek clarifications from any Applicant regarding its Proposal. Such clarification(s) shall be provided within the time specified by MOR for this purpose. Any request for clarification(s) and all clarification(s) shall be in writing.
- 2.22.2 If an Applicant does not provide clarifications sought under Sub-Clause 2.21.1 above, within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, MOR may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning of such interpretation of MOR.

## **E. APPOINTMENT OF CONSULTANT**

### **2.23 Negotiations**

The first ranked Applicant may, if necessary, be invited for negotiations. The negotiations shall generally not be for reducing the price of the Proposal, but will be for re-confirming the obligations of the Consultant under this RFP. Issues such as deployment of Key Personnel, understanding of the RFP, methodology and quality of the work plan, etc. shall be discussed during negotiations.

### **2.24 Substitution of Key Personnel**

- 2.24.1 MOR will not normally consider request of the selected Applicant for substitution of Key Personnel during negotiations as the ranking of the Applicant is based on the evaluation of the Key Personnel, and any change therein may upset the ranking. Substitution, will, however be permitted if

the Key Personnel is not available for reasons of any incapacity due to health.

2.24.2 MOR expects all the proposed Key Personnel to be available during implementation of the Agreement. MOR will not consider substitution of Key Personnel except under exceptional circumstances. Such substitution shall be limited to one Key Personnel and subject to equally or better qualified and experienced personnel being provided to the satisfaction of MOR. Such substitution shall be subject to reduction of Agreement Value by to 10% for each substitution.

2.24.3 Substitution of the Team Leader (Procurement Expert) will not normally be considered and may lead to disqualification of the Applicant or termination of the Agreement.

**2.25 Indemnity**

The Consultant shall, subject to the provisions of the Agreement, indemnify MOR for any direct loss or damage that is caused due to any deficiency in services.

**2.26 Award of Consultancy**

After negotiations, if any, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Selected Applicant and the Selected Applicant shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof.

**2.27 Execution of Agreement**

After acknowledgement of the LOA as aforesaid by the Selected Applicant, it shall execute the Agreement in the form specified at Schedule-2 (the “**Agreement**”) within 10 days of the issue of LOA. The Selected Applicant shall not be entitled to seek any deviation in the Agreement. The Agreement shall come into force and effect on the date of signing which shall be deemed to be the effective date (the “**Effective Date**”)

**2.28 Commencement of Assignment**

The Consultant shall commence the Services in Delhi within seven days of the date of effectiveness of the Agreement.

**2.29 Proprietary data**

All documents and other information supplied by MOR or submitted by an Applicant to MOR shall remain or become the property of MOR. Applicants are to treat all information as strictly confidential. MOR will not return any Proposal or any information provided along therewith.

### 3. CRITERIA FOR EVALUATION

#### 3.1 Evaluation of Technical Proposals

- 3.1.1 In the first stage, the Technical Proposal will be evaluated on the basis of Applicant's experience and the experience of Key Personnel.
- 3.1.2 Only those Applicants whose Technical Proposals score 70 points or more out of 100 points shall be ranked as per score achieved by them, from highest to the lowest technical score ( $S_T$ ).
- 3.1.3 The scoring criteria to be used for technical evaluation shall be as follows.

| Item Code   | Criteria                                 | Marks <sup>*</sup> |
|-------------|--|--------------------|
| 1.          | Applicant's Relevant Experience          | 30                 |
| 2.          | Relevant Experience of the Key Personnel | 70                 |
| 3a          | Procurement Expert                       | (15)               |
| 3b          | Legal Expert                             | (10)               |
| 3c          | Financial Expert                         | (07)               |
| 3d          | Rolling Stock Expert                     | (07)               |
| 3e          | Mechanical Expert                        | (07)               |
| 3f          | Structural Expert                        | (07)               |
| 3g          | Civil Engineering Expert                 | (07)               |
| 3h          | PPP Expert                               | (10)               |
| Grand Total |  | 100                |

\* Marks will be awarded on a relative scale with the Applicant/Key Personnel with the maximum number of Eligible Assignments will be awarded 100% marks and the remaining Applicants/Key Personnel will be awarded the marks on a reducing proportionate scale in terms of number of their Eligible Assignments with reference to the number of Eligible Assignments of the Applicant/Key Personnel with the maximum number of Eligible Assignments. For the avoidance of doubt and by way of illustration, if an Applicant 'A' has executed 4 Eligible Assignments and the Applicants 'B' and Applicants 'C' have executed 2 and 1 Eligible Assignments respectively then the Applicant 'A' will be awarded 100% marks, the Applicant 'B' will be awarded 50% marks and the Applicant 'C' will be awarded 25% marks.



### **3.1.4 Eligible Assignments**

For the purposes of determining Conditions of Eligibility and for evaluating the Proposals under this RFP, consultancy assignments in respect of the following shall be deemed as relevant eligible assignments of the Applicant/Key Personnel (the “**Eligible Assignments**”):

**(a) In the case of Applicant:**

Consultancy for EPC Contract or infrastructure project valued at more than Rs. 500 crore (USD 100 Million);

**(b) In the case of Procurement Expert:**

experience of EPC contract/infrastructure project/procurement contracts for Railway coaches including Metro Coaches, Diesel or Electric Multiple Units , valued at more than Rs. 500 crore (USD 100 Million) each;

**(c) In the case of Rolling Stock Expert:**

experience of working in a coach manufacturing unit with an annual capacity of 200 coaches for a period of at least 2 years and/or design of coaching stock for 2 years and/or maintenance of coaching stock for 3 years and/or coaching stock policy issues for 2 years. The total of such experiences should not be less than 5 years.

**(d) In the case of Mechanical Expert:**

experience of setting up a manufacturing unit of not less than 200 coaches per annum or experience of coach manufacturing processes/jigs & fixtures/M&P in a coach manufacturing unit for at least 3 years.

**(e) In the case of Legal Expert:**

experience of drafting of concession agreements or procurement contracts or Tariff Based Bidding contracts for Government of India/Government of any state of India of over Rs. 200 crore (USD 50 Million);

**(f) In the case of Financial Expert**

experience of drafting of financial aspects of concession agreements or procurement contracts or Tariff Based Bidding contracts for Government of India/Government of any state of India of over Rs. 200 crore (USD 50 Million).

**(g) In case of the Structural Expert**

experience of consultancy/design of heavy industrial shed such as workshop, coaching/metro depot, diesel/electric shed,

station buildings preferably with erection of pre-engineered fabrications for a period of three years;

**(h) In case of the Civil Engineering Expert**

experience of consultancy/execution of factory/station/township projects relating to architectural design/drawing of buildings, sanitation, drainage, road, water supply, landscaping, aesthetics eco park, pollution control& energy saving measures etc. for a period of not less than five years; and

**(i) In case of the PPP Expert**

experience of consultancy for PPP projects of highway/ /powerhouse/ any other infrastructure project, or Procurement Contract for Railway coaches/MRTS rolling stock or BOT contract valuing MORE than Rs 200 crores.

*Note: Infrastructure Project includes highways, power plants, port and airport.*

**3.2 Short-listing of Applicants**

The Applicants ranked as aforesaid shall be pre-qualified and short-listed for financial evaluation in the second stage. However, if the number of such pre-qualified Applicants is less than three, MOR may, in its sole discretion, pre-qualify the Applicant(s) whose Technical Score is less than 70 points; provided that in such an event, the total number of pre-qualified and short-listed Applicants shall not exceed three.

**3.3 Evaluation of Financial Proposal**

- 3.3.1 In the second stage, the financial evaluation will be carried out as per this Clause 3.3. Each Financial Proposal will be assigned a financial score ( $S_F$ ).
- 3.3.2 For financial evaluation, the total cost indicated in the Financial Proposal, excluding Additional Costs, will be considered.
- 3.3.3 The Evaluation Committee will determine whether the Financial Proposals are complete, unqualified and unconditional. 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 ( $F_M$ ) will be given a financial score ( $S_F$ ) of 100 points. The financial scores of other proposals will be computed as follows:

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

(F = amount of Financial Proposal)

### **3.4 Combined and Final Evaluation**

- 3.4.1 Proposals will finally be ranked according to their combined technical ( $S_T$ ) and financial ( $S_F$ ) scores as follows:

$$S = S_T \times T_w + S_F \times F_w$$

Where,  $T_w$  and  $F_w$  are weights assigned to technical and financial Proposals that shall be 0.7 and 0.3 respectively.

- 3.4.2 Generally, the successful Applicant shall be the Applicant having the highest combined score.

## **4. FRAUD AND CORRUPT PRACTICES**

- 4.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. MOR shall reject a Proposal, without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Selection Process.
- 4.2 Without prejudice to the rights of MOR under Clause 4.1 hereinabove and the rights and remedies which MOR may have under the LOA or the Agreement, if an Applicant or Consultant, as the case may be, is found by MOR to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Applicant or Consultant shall not be eligible to participate in any tender or RFP issued by MOR during a period of 2 (two) years from the date such Applicant or Consultant, as the case may be, is found by MOR to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3 For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner

whatsoever, directly or indirectly, any official of MOR who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process) or engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement till six months after issuance of Letter of Award to the Successful Bidder, assistance for whose selection / bid process was provided by the Consultant, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;

- (b) “fraudulent practice” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Selection Process;
- (d) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by MOR with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a conflict of interest; and
- (e) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

## **5. PRE-PROPOSAL CONFERENCE**

- 5.1 Pre-Proposal Conference of the Applicants shall be convened at the designated date, time and place. Only those Applicants, who have purchased the RFP document or downloaded the same from the Official Website for the Authority, shall be allowed to participate in the Pre-Proposal Conference. A maximum of two representatives of each Applicant shall be allowed to participate on production of an authority letter from the Applicant.
- 5.2 During the course of Pre-Proposal Conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Selection Process.

## **6. MISCELLANEOUS**

- 6.1 The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.
- 6.2 MOR, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time to:
- (a) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
  - (b) consult with any Applicant in order to receive clarification or further information;
  - (c) retain any information and/or evidence submitted to MOR by, on behalf of and/or in relation to any Applicant; and/or
  - (d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Applicant.
- 6.3 It shall be deemed that by submitting the Proposal, the Applicant agrees and releases MOR, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.
- 6.4 All documents and other information supplied by MOR or submitted by an Applicant shall remain or become the property of MOR. Applicants are to treat all information, as strictly confidential. MOR will not return any submissions.
- 6.5 MOR reserves the right to make inquiries with any of the Clients listed by the Applicants in their previous experience record.
- 6.6 Applicants or any of their affiliates shall not be hired for any assignment, which by its nature, may be in conflict with other assignment of the Applicant.
- 6.7 Applicants are advised that MOR will not respond to any enquiries or enter into communication concerning or relating to Selection Process.

## **SCHEDULES**

## SCHEDULE - 1

**TERMS OF REFERENCE****1 Scope of Services**

The scope of the consultancy would entail drafting of “Request for Proposal” (RFP) for invitation of bids for the **EPC, BOT and Procurement-cum-ToT Agreements**, (the “**Bid Documents**”) for setting up the **Production Unit** and Evaluation of Bids received in response thereof. and Evaluation of Bids received in response thereof. and Evaluation of Bids received in response thereof.. The Consultant will be required to design the **Production Unit** including township, with detailed civil engineering construction design/drawing, factory lay out, manufacturing processes, M&P, specifications, jigs and fixtures, tooling, material handling equipment etc, and prepare Detailed Project Report, Detailed Estimate and BOQ. The Consultant will also be required to assist MOR during the bid processes for **EPC, BOT and Procurement-cum-ToT Agreements** in accordance with the Terms of Reference (TOR) hereof. The TOR includes legal vetting of all the documents drafted/reviewed by the Consultant.

**2 Obligations of “The Consultant”****2.1 Advisory on EPC Agreement:**

2.1.1 Ministry of Railway (MOR) proposes to set up the **Production Unit** to manufacture 1000 coaches per annum through an EPC Agreement. Selection of EPC Contractor will be on the basis of an International Competitive Bidding (ICB), bid document for which will be prepared by the Consultant. The bid document shall, *inter alia*, include/specify the following:

- Technical and financial evaluation criteria for pre-qualification of EPC Contractor, including guidelines and marking scheme;
- Detailed civil engineering design/drawing for setting up the coach manufacturing unit with an annual production capacity of 1000 coaches;
- Shop layout, process flow diagram, list of Machinery and Plants with specification, jigs and fixtures, special tools, material handling equipment etc. for manufacturing 1000 coaches/annum;
- Cycle time for coach manufacture;
- Average manpower required per coach based on best international practices;



- Scheme for capacity proving of Rail Coach Factory for manufacturing 1000 coaches per annum;
- Detailed civil engineering architectural design/drawing for the township and essential utilities, required for residential accommodation of officers and staff of Production Unit. This will include colony layout, landscaping, water supply system, drainage, sewer line, roads, road over/under-bridge for connecting factory and colony, essential support facilities such as shopping complex, sports facility, hospital, auditorium, lake, eco-park and application of modern town planning concepts such as pollution control and energy saving measures; and
- Bill of Quantity, specification and such other detail as required by EPC contractor for construction of Production Unit and township.

2.1.2 The Consultant will also be responsible for the following:

- Preparation of Detailed Project Report (DPR) for setting up Rail Coach Factory for manufacturing 1000 coaches/annum;
- Detailed Estimate of Costs; and
- Bill of Quantity.

2.1.3 The Consultant will be required to facilitate construction of factory and township by EPC contractor by giving necessary clarification on the design/drawing, specification as may be necessary during project execution.

## **2.2 Advisory on BOT Agreement:**

2.2.1 Ministry of Railways proposes to outsource the activity of painting and garnet blasting of all the coaches to be manufactured in the **Production Unit** through a BOT Agreement. Selection of BOT Contractor will be on the basis of an International Competitive Bidding (ICB), bid document for which will be prepared by the Consultant. The bid document shall, *inter alia*, include/specify the following:

- Technical and financial evaluation criteria for pre-qualification of BOT Contractor including guidelines and marking schemes;
- Deliverables for setting up facilities for carrying out the nominated outsourced activity;
- Terms and conditions for Maintenance and Operation of Facility and its transfer to IR at the end of BOT Contract;
- Price variation clause;

*Technical specification will be provided by MOR.*

### **2.3 Advisory on Procurement-cum-ToT Agreement:**

2.3.1 Ministry of Railways proposes to bridge the technology gap in the manufacture of coach by acquiring technology from an internationally reputed coach manufacturer through a Procurement-cum-ToT Agreement. Selection of Technology Provider will be on the basis of an International Competitive Bidding (ICB), bid document for which will be prepared by the Consultant. The bid document shall, *inter alia*, include/specify the following:

- Technical and financial evaluation criteria for pre-qualification of Technology Provider including guidelines and marking schemes;
- Terms and conditions for supply of double decker coaches with air suspension bogies and Self-propelled Accident Relief Train (SPART) Coaches;
- Terms and conditions for ToT for manufacturing Double Decker coaches, air suspension bogies, couplers and SPART.

2.4 The Consultant shall present the possible bidding parameters along with the evaluation criteria and methodology and firm up their recommendations after consultation with MOR. The bidding and evaluation criteria shall aim at promoting a fair and transparent process of competitive bidding.

### **2.5 Assistance in Bid Process**

In addition to preparation of bid documents the Consultant shall also assist MOR in the bid process, which will typically comprise of:

- Assistance in responding to queries from bidders;
- Attending pre-bid conferences;
- Preparation of addenda, corrigendum, etc;
- Legal vetting of all the documents drafted/reviewed by the Consultant;
- Evaluation of bids received.

### **3.0 Deliverables**

The Consultant shall deliver the following during the course of this Consultancy. The deliverables shall be so drafted in such a way that they are complete in all respects and they could be given to the bidders for preparation of their Bids. Five hard copies and five soft copies in CDs of all the Reports mentioned herein below shall be submitted to MOR. The deliverables shall include:

**A. Inception Report**

On commencement of the Consultancy, the Consultant shall prepare and submit an Inception Report (the “**Inception Report**”). The Inception Report shall be a further elaboration of the Consultant’s submissions towards understanding of the RFP, the methodology to be followed and Work Plan.

**B. Detailed Project Report of Production Unit;****C. Detailed Estimate and BOQ;****D. Bid documents (Refer Clauses 2.1, 2.2, 2.3 and 2.4);****E. Assistance in pre-Bid meetings (Refer Clause 2.5).****4.0 Assistance in pre-bid meetings etc.**

The Consultant shall assist MOR in pre-bid meetings in addressing queries of the bidders and in amending the Bid documents as may be necessary.

**5. Time and payment schedule**

5.1 Consultant shall deploy his Key Personnel at its project office in Delhi (the “**Project Office**”) as per Manning Schedule proposed. After submission of the Bid Documents, the Consultant will be expected to participate in pre-bid conference and in assisting MOR in responding to queries from bidders, including amendment of the Bid Documents as necessary. MOR may also require the consultant to provide additional services after Completion of Services. For such additional services, economy air return fare and per diem at the agreed man day rates shall be reimbursed to the Consultant. For travel associated with the additional services, per diem for one day would be provided by way of travel time to and from Delhi in case of Expatriate Personnel.

5.2 Time schedule for submission of important deliverables, shall be determined by the maximum permissible number of days from the Effective Date of the Agreement (the “**Key Dates**”). The Key Dates and payment schedule linked to the specified deliverables are given below:

| <b>Key Date No.</b> | <b>Description of deliverables</b> | <b>Key Date</b> | <b>Payment</b> |
|---------------------|------------------------------------|-----------------|----------------|
| KD1                 | Inception Report                   | 14              | 10%            |
| KD2                 | MOR’s approval of Inception Report | 21              |                |
| KD3                 | Detailed Project Report            | 120             | 15%            |
| KD4                 | Detailed Estimate & BOQ            | 150             |                |

|      |  |   |     |
|------|--|---|-----|
| KD5  | Draft Bid Document for EPC Agreement                                   | 150   | 20% |
| KD6  | MOR's approval of Draft Bid Document for EPC Agreement                 | 180   |     |
| KD7  | Final Bid document for EPC Agreement                                   | 5 days after MOR's approval                                     |     |
| KD8  | Evaluation of EPC bids by Consultant.                                  | 15 days after bid due date for EPC contract                     | 5%  |
| KD9  | LOA to successful EPC bidder.  | 60 days after bid due date for EPC contract                     |     |
| KD10 | *Draft Bid Document for BOT Agreements                                 | 75  | 15% |
| KD11 | MOR's approval of Draft Bid Document for BOT Agreement                 | 105   |     |
| KD12 | Final Bid document for BOT Agreement                                   | 5 days after MOR's approval                                     |     |
| KD13 | Evaluation of BOT bids.  | 15 days after the due date for receiving bids for BOT Agreement | 5%  |
| KD14 | LOA to successful BOT bidder   | 60 days after bid due date for receiving BOT bids               |     |
| KD15 | Draft Bid Document for Procurement-cum-ToT Agreement                   | 75  | 15% |
| KD16 | MOR's approval of Draft Bid Document for Procurement-cum-ToT Agreement | 105   |     |
| KD17 | Final Bid document for Procurement-cum-ToT Agreement                   | 5days after MOR's   |     |

|              |   |   |             |
|--------------|---|---|-------------|
|              |   | approval.   |             |
| KD18         | Evaluation of bids for Procurement-cum-Agreement. | 15 days after Bid due date for Procurement-cum-ToT contract   | 5%          |
| KD19         | LOA to successful Technology Provider             | 60 days after bid due date for receiving Procurement-cum-ToT contract bid                             |             |
| KD20         | Commissioning of Factory                          | Date of commissioning or 3 years from the date of LOA to successful EPC bidder, whichever is earlier. | 10%         |
| <b>Total</b> |   |   | <b>100%</b> |

*\*Nominated activities for out-sourcing are- painting and garnet blasting of coaches. For any additional out-sourcing activity included later by MOR in the scope of consultancy, the Consultant will be paid additional fee at the rate of 1/4<sup>th</sup> of the relevant milestone payment due for BOT consultancy(items KD10 and KD13).*

*MOR shall retain by way of performance security (the "Performance Security"), 5% (five percent) of all the amounts due and payable to the Consultant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2 , Schedule -2, Form of Agreement. The balance remaining out of the Performance Security shall be returned to the Consultant at the end of three months after the expiration of the Agreement pursuant to Clause 2.4 thereof.*

*The Consultant may, in lieu of retention of the amounts as referred to above, furnish a Bank Guarantee from a Scheduled Bank in India substantially in the form specified at Annex-5 of the Agreement.*

**6. Consultancy Team and Project Office**

6.1 The Consultant shall form a multi-disciplinary team (the “**Consultancy Team**”) for undertaking this assignment. The Consultancy Team shall consist of experts who have the requisite experience. Procurement Expert shall be the leader of this Consultancy Team.

6.2 The Consultant shall mobilize and demobilize its Professional Personnel in consultation with MOR and shall maintain the time sheet/ attendance sheet of the working of all Key Personnel. These time sheets/ attendance sheets shall be made available to MOR as and when asked for and a copy of such record shall be submitted to MOR at the end of each week.

**7.0 Completion of Services**

All the study outputs including primary data shall be compiled, classified and submitted by the Consultant to MOR in soft form apart from the Deliverables indicated in Clause 3 above. The study outputs shall remain the property of MOR and shall not be used for any purpose other than that intended under these Terms of Reference. The Consultancy services shall stand completed on acceptance of all the required deliverables of the Consultant by MOR and issue of a certificate by MOR to that effect.

SCHEDULE – 2

**AGREEMENT  
FOR  
CONSULTANT**

**For Consultancy for Setting up  
Departmental Production Units by Ministry of Railways  
For Manufacturing  
Coaches**

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## AGREEMENT

### For Consultancy for Rail Coach Factory at Rae Bareli

AGREEMENT No. \_\_\_\_\_

This AGREEMENT (hereinafter called the “**Agreement**”) is made on the \_\_\_\_\_ day of the month of \_\_\_\_\_ 20\*\*, between, on the one hand, the President of India acting through Chief Project Manager/Rail Coach Factory, Rae Bareli, Old TA Building, Kishanganj, Delhi-110007 (hereinafter called the “**MOR**” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, \_\_\_\_\_ (hereinafter called the “**Consultant**” which expression shall include their respective successors and permitted assigns).

#### WHEREAS

- (A) MOR vide their Request for Proposals for consultant for providing consultancy services for setting up of departmental Production Unit for manufacturing of Railway Coaches for Indian Railways (hereinafter called the “**Consultancy**”) invited technical and financial proposals to undertake the work of Consultancy for the above referred work (hereinafter called the “**Project**”);
- (B) the Consultant submitted its proposals for the aforesaid work, whereby the Consultant represented to MOR that it had the required professional skills, and in the said proposals the Consultant also agreed to provide the Services to MOR on the terms and conditions as set forth in the RFP and this Agreement; and
- (C) MOR, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy work to the Consultant vide the Letter of Award for the Consultancy dated \_\_\_\_\_ (the “**LOA**”); and
- (D) in pursuance of the LOA, the parties have agreed to enter into this Agreement.

NOW, THEREFORE, the parties hereto hereby agree as follows:

## 1. GENERAL

### 1.1 Definitions and Interpretation

1.1.1 The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:

- (a) “Applicable Laws” means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time;
- (b) “Agreement” means this Agreement, together with all the Annexes;
- (c) “Agreement Value” shall have the meaning set forth in Clause 6.1 (b)
- (d) “Additional Costs” shall have the meaning set forth in Clause 6.1 (b);
- (e) “Confidential Information” shall have the meaning set forth in Clause 3.3;
- (f) “Dispute” shall have the meaning set forth in Clause 9.2.1;
- (g) “Effective Date” means the date on which this Agreement comes into force and effect pursuant to Clause 2.1;
- (h) “Expatriate Personnel” means such persons who at the time of being so hired had their domicile outside India;
- (i) “Government” means the Government of India;
- (j) “INR, Re. or Rs.” means Indian Rupees;
- (k) “Member”, in case the Consultant consists of a joint venture or consortium of more than one entity, means any of these entities, and “Members” means all of these entities;
- (l) “Personnel” means persons hired by the Consultant or by any Sub-Consultant as employees and assigned to the performance of the Services or any part thereof;
- (m) “Party” means MOR or the Consultant, as the case may be, and Parties means both of them;
- (n) “Resident Personnel” means such persons who at the time of being so hired had their domicile inside India;
- (o) “Services” means the work to be performed by the Consultant pursuant to this Agreement, as described in the Terms of Reference hereto;

(p) “RFP” means the Request for Proposal document in response to which the Consultant’s Proposal for providing Services was accepted;

(q) “Third Party” means any person or entity other than the Government, MOR, the Consultant or a Sub-Consultant.

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP.

1.1.2 The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral part of this Agreement and in case of any contradiction between or among them the priority in which a document would prevail over other would be as laid down below beginning from the highest priority to the lowest priority:

- (a) Agreement;
- (b) Annexes of Agreement;
- (c) RFP; and
- (d) Letter of Award

## **1.2 Relation between the Parties**

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

## **1.3 Rights and obligations**

The mutual rights and obligations of MOR and the Consultant shall be as set forth in the Agreement; in particular:

- (a) the Consultant shall carry out the Services in accordance with the provisions of the Agreement; and
- (b) MOR shall make payments to the Consultant in accordance with the provisions of the Agreement.

## **1.4 Governing law and jurisdiction**

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Delhi shall have jurisdiction over matters arising out of or relating to this Agreement.

**1.5 Language**

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

**1.6 Table of contents and headings**

The table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement.

**1.7 Notices**

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- (a) in the case of the Consultant, be given by facsimile and by letter delivered by hand to the address given and marked for attention of the Consultant's Representative set out below in clause 1.10 or to such other person as the Consultant may from time to time designate by notice to the MOR; provided that notices or other communications to be given to an address outside Delhi may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile to the number as the Consultant may from time to time designate by notice to the MOR;
- (b) in the case of MOR, be given by facsimile and by letter delivered by hand and be addressed to the MOR with a copy delivered to the MOR Representative set out below in Clause 1.10 or to such other person as MOR may from time to time designate by notice to the Consultant; provided that if the Consultant does not have an office in Delhi it may send such notice by facsimile and by registered acknowledgement due, air mail or by courier; and
- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered.

**1.8 Location**

The Services shall be performed at Delhi.

**1.9 Authority of Member-in-charge**

The Parties agree that the Lead Member shall act on behalf of the Members of the Consortium in exercising all the Consultant's rights and

obligations towards MOR under this Agreement, including without limitation the receiving of instructions and payments from MOR.

#### **1.10 Authorised representatives**

1.10.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by MOR or the Consultant, as the case may be, may be taken or executed by the officials specified in this Clause 1.10.

1.10.2 MOR may, from time to time, designate one of its officials as MOR Representative. Unless otherwise notified, the MOR Representative shall be:

CHIEF PROJECT MANAGER  
RCF/RBL PROJECT  
OLD TA BUILDING  
KISHANGANJ,  
DELHI-110007 (India)  
Phone:+91-11-23695824 Fax:+91-11-23695824  
Email:cpmrcfrbl@gmail.com

1.10.3 The Consultant may designate one of its employees as Consultant's Representative. Unless otherwise notified, the Consultant's Representative shall be:

\_\_\_\_\_  
\_\_\_\_\_  
Tel: \_\_\_\_\_  
Fax: \_\_\_\_\_

#### **1.11 Taxes and duties**

Unless otherwise specified in the Agreement, the Consultant shall pay all such taxes, duties, fees and other impositions as may be levied under the applicable laws and MOR shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed.

### **2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT**

#### **2.1 Effectiveness of Agreement**

This Agreement shall come into force and effect on the date of this Agreement (the "Effective Date").

#### **2.2 Commencement of Services**

The Consultant shall commence the Services within a period of 7 (seven) days from the Effective Date, unless otherwise agreed by the Parties.

**2.3 Termination of Agreement for failure to commence Services**

If the Consultant does not commence the Services within the period specified in Clause 2.2 above, MOR may, by not less than 2 (two) weeks' notice to the Consultant, declare this Agreement to be null and void.

**2.4 Expiration of Agreement**

Unless terminated earlier pursuant to Clause 2.9 hereof, this Agreement shall expire when the Services have been completed and a period of 90 (ninety) days has elapsed after all payments due under this Agreement, have been made.

**2.5 Entire Agreement**

2.5.1 This Agreement and the Annexes together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Consultant arising out of the RFP shall continue to subsist and shall be deemed as part of this Agreement.

2.5.2 Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not covered by this Agreement, the provisions of RFP shall apply.

**2.6 Modification of Agreement**

Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause 4.2(c) and 6.1(c) hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

**2.7 Force Majeure**

**2.7.1 Definition**

(a) For the purposes of this Agreement, "Force Majeure" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other 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 such Party's Sub-Consultant or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement and (B) avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

#### 2.7.2 No breach of Agreement

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Agreement 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 Agreement.

#### 2.7.3 Measures to be taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfil its obligations hereunder with a minimum of delay.
- (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 event 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 notice of the restoration of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

#### 2.7.4 Extension of time

Any period within which a Party shall, pursuant to this Agreement, 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.

#### 2.7.5 Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to be reimbursed for additional costs reasonably and necessarily incurred by it during such



period for the purposes of the Services and in reactivating the Services after the end of such period.

#### 2.7.6 Consultation

Not later than thirty (30) days after the Consultant has, as the result of an event of Force Majeure, become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

### 2.8 Suspension of Agreement

MOR may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the Consultant to remedy such breach or failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

### 2.9 Termination of Agreement

#### 2.9.1 By MOR

MOR may, by not less than thirty (30) days' written notice of termination to the Consultant, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:

- (a) the Consultant fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as MOR may have subsequently granted in writing;
- (b) the Consultant becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) the Consultant submits to MOR a statement which has a material effect on the rights, obligations or interests of MOR and which the Consultant knows to be false;
- (e) any document, information, data or statement submitted by the Consultant in its Proposals, based on which the Consultant was

considered eligible or successful, is found to be false, incorrect or misleading;

- (f) 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; or
- (g) MOR, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

#### 2.9.2 By the Consultant

The Consultant may, by not less than thirty (30) day's written notice to MOR, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.2, terminate this Agreement if:

- (a) MOR fails to pay any money due to the Consultant pursuant to this Agreement and not subject to dispute pursuant to Clause 9 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue;
- (b) MOR is in material breach of its obligations pursuant to this Agreement and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently granted in writing) following the receipt by MOR of the Consultant's notice specifying such breach;
- (c) 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; or
- (d) MOR fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

#### 2.9.3 Cessation of rights and obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 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 3.3 hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of its accounts and records set forth in Clause 3.6 (ii) hereof, and any right which a Party may have under the Applicable Law.

#### 2.9.4 Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1, 2.9.2 or 2.9.3 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 MOR, the Consultant shall proceed as provided respectively by Clauses 3.9 or 3.10 hereof.

#### 2.9.5 Payment upon Termination

Upon termination of this Agreement pursuant to Clauses 2.9.1, 2.9.2 or 2.9.3 hereof, MOR shall make the following payments to the Consultant (after offsetting against these payments any amount that may be due from the Consultant to MOR):

- (i) remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;
- (ii) reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; and
- (iii) except in the case of termination pursuant to sub-clauses (a) through (e) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement including the cost of the return travel of the Consultant's personnel.

#### 2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 or in Clause 2.9.3 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement 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 Standards of Performance

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

3.1.2 Terms of Reference

The scope of Services to be performed by the Consultant is specified in the Terms of Reference (the “**TOR**”) at Annex-I of this Agreement. The Consultant shall provide the deliverables specified therein in conformity with the time schedule stated therein.

3.1.3 Applicable Laws

The Consultant shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Sub-Consultant, as well as the Personnel and agents of the Consultant comply with the Applicable Laws.

**3.2 Conflict of Interest and Prohibited Practices**

3.2.1 The Consultant shall not have a Conflict of Interest and any breach hereof shall constitute a breach of the Agreement.

3.2.2 Consultant and Affiliates not to be otherwise interested in the Project. The Consultant agrees that, during the term of this Agreement and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultant and any entity affiliated with such Sub-Consultant, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services till six months after issuance of Letter of Award to the Successful Bidder, assistance for whose selection / bid process was provided by the Consultant, and any breach of this obligation shall amount to a Conflict of Interest.

3.2.3 Prohibition of conflicting activities

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

- (a) during the term of this Agreement, any business or professional activities in India which would conflict with the activities assigned to them under this Agreement;
- (b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or
- (c) at any time, such other activities as have been specified in the RFP as Conflict of Interest.

3.2.4 Consultant not to benefit from commissions discounts, etc.

The remuneration of the Consultant pursuant to Clause 6 hereof shall constitute the Consultant’s sole remuneration in connection with this Agreement or the Services and the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection

with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-Consultant, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

- 3.2.5 The Consultant and its Personnel shall observe the highest standards of ethics and should not have engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “**Prohibited Practices**”). Notwithstanding anything to the contrary contained in this Agreement, the MOR shall be entitled to terminate this Agreement forthwith by a communication in writing to the Consultant, without being liable in any manner whatsoever to the Consultant, if it determines that the Consultant has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the MOR shall forfeit and appropriate the performance security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to MOR towards, inter alia, time, cost and effort of the MOR, without prejudice to the MOR’s any other rights or remedy hereunder or in law.
- 3.2.6 Without prejudice to the rights of the MOR under Clause 3.2.5 above and the other rights and remedies which the MOR may have under this Agreement, if the Consultant is found by MOR to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the Consultant shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the Consultant is found by MOR to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.
- 3.2.7 For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “**corrupt practice**” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of MOR who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement before or after the

execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, till six months after issuance of Letter of Award to the Successful Bidder, assistance for whose selection / bid process was provided by the Consultant, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser to MOR in relation to any matter concerning the Project;

- (b) “fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Selection Process or the exercise of its rights or performance of its obligations by MOR under this Agreement;
- (d) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by MOR with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (e) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

### **3.3 Confidentiality**

The Consultant and its Personnel shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, designs software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by MOR to the Consultant, its Personnel; any information provided by or relating to MOR, its technology, technical processes,

business affairs or finances or any information relating to MOR's employees, directors, officers or other professionals or suppliers, customers, or contractors of MOR, and any other information which the Consultant is under an obligation to keep confidential in relation to the Project, the Services or this Agreement ("**Confidential Information**") without the prior written consent of MOR.

Notwithstanding the aforesaid, the Consultant, its Sub-Consultant and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- (i) was in the public domain prior to its delivery to the Consultant, its Sub-Consultant and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Consultant, its Sub-Consultant and the Personnel of either of them;
- (ii) was obtained from a third party with no known duty to maintain its confidentiality;
- (iii) is required to be disclosed by Law or judicial or administrative or arbitral process or by any Governmental Instrumentalities, provided that for any such disclosure, the Consultant, its Sub-Consultant and the Personnel of either of them shall give MOR, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment ;
- (iv) is provided to the professional advisers, agents, auditors or representatives of the Consultant or its Sub-Consultant or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Consultant or its Sub-Consultant or Personnel of either of them, as the case may be, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

### **3.4 Liability of the Consultant**

3.4.1 The Consultant's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.

3.4.2 Consultant's liability towards MOR

The Consultant shall be liable to MOR for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.

3.4.3 The Parties hereto agree that in case of negligence or willful misconduct on the part of the Consultant or on the part of any person or firm acting on

behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to MOR's property, shall not be liable to MOR:

- (i) for any indirect or consequential loss or damage; and
- (ii) for any direct loss or damage that exceeds (A) the total payments made or expected to be made to the Consultant hereunder, or (B) the proceeds the Consultant may be entitled to receive from any insurance maintained by the Consultant to cover such a liability, whichever of (A) or (B) is higher.

This limitation of liability shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services.

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

- 3.5.1 (a) The Consultant shall take out and maintain, and shall cause any Sub-Consultant to take out and maintain, at its (or the Sub-Consultant's, as the case may be) own cost but on terms and conditions approved by MOR, insurance against the risks, and for the coverage, as shall be specified in the Agreement.
- (b) Within 15 (fifteen) days of receiving any insurance policy certificate in respect of insurances required to be obtained and maintained under this clause, the Consultant shall furnish to MOR, copies of such policy certificates, copies of the insurance policies and evidence that the insurance premia have been paid in respect of such insurance. No insurance shall be cancelled, modified or allowed to expire or lapse during the term of this Agreement.
- (c) If the Consultant fails to effect and keep in force the aforesaid insurances for which it is responsible pursuant hereto, MOR shall, apart from having other recourse available under this Agreement, have the option, without prejudice to the obligations of the Consultant, to take out the aforesaid insurance, to keep in force any such insurances, and pay such premia and recover the costs thereof from the Consultant, and the Consultant shall be liable to pay such amounts on demand by MOR.
- (d) Except in case of Third Party liabilities, the insurance policies so procured shall mention MOR as the beneficiary of the Consultant and the Consultant shall procure an undertaking from the insurance company in this regard.
- 3.5.2 The Parties agree that the risks and coverage shall include but not be limited to the following:
- (a) Third Party liability insurance as required under Applicable Laws.



- (b) Third Party liability insurance with a minimum coverage of [Rs. 25 million] for the period of this Agreement
- (c) The indemnity limit in terms of “Any One Accident” (AOA) and “Aggregate limit on the policy period” (AOP) should not be less than the amount stated in Clause 6.1(b) of the Agreement. In case of consortium, the policy should be in the name of Lead Member and not in the name of individual Members of the consortium.
- (d) Employer’s liability and workers’ compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and all insurances and policies should start no later than the date of commencement of Services and remain effective as per relevant requirements of the Agreement.

### **3.6 Accounting, inspection and auditing**

The Consultant shall,

- (i) keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the basis thereof (including the basis of the Consultant’s costs and charges), and
- (ii) permit MOR or its designated representative periodically, and up to one year from the expiration or termination of this Agreement, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by MOR.

### **3.7 Consultant’s actions requiring MOR's prior approval**

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

- (a) appointing such members of the Professional Personnel as are not listed in Annex-2; and
- (b) any other action that may be specified in this Agreement.

### **3.8 Reporting obligations**

The Consultant shall submit to MOR the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.

### **3.9 Documents prepared by the Consultant to be property of MOR**

- 3.9.1 All plans, drawings, specifications, designs, reports and other documents prepared by the Consultant in performing the Services shall become and

remain the property of MOR, and the Consultant shall, not later than termination or expiration of this Agreement, deliver all such documents to MOR, together with a detailed inventory thereof. The Consultant may retain a copy of such documents. Restrictions about the future use of these documents shall be as specified in the Agreement.

- 3.9.2 The Consultant shall not use these documents for purposes unrelated to this Agreement without the prior written approval of MOR.

**3.10 Equipment and materials furnished by MOR**

Equipment and materials made available to the Consultant by MOR shall be the property of MOR and shall be marked accordingly. Upon termination or expiration of this Agreement, the Consultant shall furnish forthwith to MOR, an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the instructions of MOR. While in possession of such equipment and materials, the Consultant shall, unless otherwise instructed by MOR in writing, insure them in an amount equal to their full replacement value.

**3.11 Providing access to Project Office and Personnel**

The Consultant shall ensure that MOR, and officials of MOR having authority from MOR, are provided unrestricted access to the Project Office and to all Personnel during office hours. MOR's any such official shall have the right to inspect the Services in progress, interact with Personnel of the Consultant and verify the records for his satisfaction.

**3.12. Accuracy of Documents**

The Consultant shall be responsible for accuracy of the data collected by it directly or procured from other agencies/authorities, the designs, drawings, estimates and all other details prepared by it as part of these services. It shall indemnify MOR against any inaccuracy in its work which might surface during implementation of the project, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Consultant or arises out of its failure to conform to good industry practices. The Consultant shall also be responsible for promptly correcting, at its own cost and risk, the drawings including any re-survey / investigations.

**4 CONSULTANT'S PERSONNEL**

**4.1 General**

The Consultant shall employ and provide such qualified and experienced Personnel as may be required to carry out the Services.

## **4.2 Deployment of Personnel**

4. 2.1 The Professional Personnel listed in Annex-2 of the Agreement are hereby approved by MOR. No other Professional Personnel shall be engaged without prior approval of MOR.
4. 2.2 If the Consultant hereafter proposes to engage any person as Professional Personnel, it shall submit to MOR its proposal along with a CV of such person in the form provided at Appendix-I (Form-12) of the RFP. MOR may approve or reject such proposal within 10 (ten) days of receipt thereof. In case the proposal is rejected, the Consultant may propose an alternative person for MOR's consideration. In the event MOR does not reject a proposal within fourteen (14) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by MOR.

## **4.3 Substitution of Key Personnel**

MOR expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. MOR will not consider any substitution of Key Personnel except under exceptional circumstances. Such substitution shall be limited to one Key Personnel and subject to equally or better qualified and experienced personnel being provided. Substitution of a Key Personnel shall be permitted subject to reduction of Agreement Value by 10% (ten percent) for each substitution.

## **4.4 Team Leader**

The person designated as Procurement Expert shall serve as the Team Leader of the Consultant's Personnel.

## **5. OBLIGATIONS OF MOR**

### **5.1 Assistance in clearances etc.**

Unless otherwise specified in the Agreement, MOR shall make best efforts to ensure that the Government shall:

- (a) provide the Consultant, its Sub-Consultant and Personnel with work permits and such other documents as may be necessary to enable the Consultant, its Sub-Consultant or Personnel to perform the Services;
- (b) facilitate prompt clearance through customs of any property required for the Services; and
- (c) 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;

## 5.2 Access to land and property

MOR warrants that the Consultant shall have, free of charge, unimpeded access to all land and property at the Station in respect of which access is required for the performance of Services; provided that if such access shall not be made available to the Consultant as and when so required, the Parties shall agree on (i) the time extension, as may be appropriate, for the performance of Services, and (ii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause 6.1(c).

## 5.3 Change in Applicable Law

If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Agreement Value specified in Clause 6.1(b).

## 5.4 Payment

In consideration of the Services performed by the Consultant under this Agreement, MOR shall make to the Consultant such payments and in such manner as is provided by Clause 6 of this Agreement.

# 6. PAYMENT TO THE CONSULTANT

## 6.1 Cost estimates and Agreement Value

- (a) An abstract of the cost of the Services payable to the Consultant is set forth in Annex-3 of the Agreement.
- (b) Except as may be otherwise agreed under Clause 2.6 and subject to Clause 6.1(c), the payments under this Agreement shall not exceed the agreement value specified herein (the “**Agreement Value**”). The Parties agree that the Agreement Value is Rs. \_\_\_\_\_ (Rs. \_\_\_\_\_), which does not include the Additional Costs specified in Annex-3 (the “**Additional Costs**”).
- (c) Notwithstanding anything to the contrary contained in Clause 6.1(b), if pursuant to the provisions of Clauses 2.6 & 2.7, the Parties agree that additional payments shall be made to the Consultant in order to cover any additional expenditures not envisaged in the cost estimates referred to in Clause 6.1(a) above, the Agreement Value set forth in Clause 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. The Consultant shall be free to convert Rupees into any foreign currency as per Applicable Laws.

## **6.3 Mode of billing and payment**

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

- (a) A Mobilisation Advance equal to 10% (ten percent) of the Agreement Value shall be paid to the Consultant on request and against a Bank Guarantee from a Scheduled Bank in India in an amount equal to such advance, such Bank Guarantee to remain effective until the advance payment has been fully set off as provided herein. The advance outstanding shall be adjusted in four equal installments from the first four stage payments due and payable to the Consultant.
- (b) **Payment Schedule**  
The Consultant shall be paid for its services as per the Payment Schedule at Annex-4 of this Agreement, subject to the Consultant fulfilling the following conditions:
  - (i) No payment shall be due for the next stage till the Consultant completes to the satisfaction of MOR the work pertaining to the preceding stage.
  - (ii) MOR shall pay to the Consultant, only the undisputed amount.
- (c) MOR shall cause the payment due to the Consultant to be made within 30 (thirty) days after the receipt by MOR of duly completed bills with necessary particulars (the "Due Date").
- (d) Any amount which MOR has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Consultant to MOR within 30 (thirty) days after receipt by the Consultant of notice thereof. Any such claim by MOR for reimbursement must be made within 1 (one) year after receipt by MOR of a final report and a final statement in accordance with this Clause 6.3 (d).
- (e) All payments under this Agreement shall be made to the account of the Consultant as may be notified to MOR by the Consultant.

## **7. LIQUIDATED DAMAGES AND PENALTIES**

### **7.1 Performance Security**

7.1.1 MOR shall retain by way of performance security (the “**Performance Security**”), 5% (five percent) of all the amounts due and payable to the Consultant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2 herein. The balance remaining out of the Performance Security shall be returned to the Consultant at the end of three months after the expiration of this Agreement pursuant to Clause 2.4 hereof.

7.1.2 The Consultant may, in lieu of retention of the amounts as referred to in Clause 7.1.1 above, furnish a Bank Guarantee substantially in the form specified at Annex-5 of this Agreement.

### **7.2 Liquidated Damages**

#### **7.2.1 Liquidated Damages for error/variation**

In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by MOR in a reasonable manner and recovered from the Consultant by way of liquidated damages, subject to a maximum of 10% (ten percent) of the Agreement Value.

#### **7.2.2 Liquidated Damages for delay**

In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.1% (zero point one percent) of the Agreement Value per day, subject to a maximum of 5% (five percent) of the Agreement Value will be imposed and shall be recovered from the Performance Security. However, in case of delay due to reasons beyond the control of the Consultant, suitable extension of time shall be granted.

#### **7.2.3 Appropriation of Performance Security**

MOR shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the Consultant in the event of breach of this Agreement or for recovery of liquidated damages specified in Clause 7.2.

In the event any portion of the Performance Security is appropriated by MOR, then immediately following such appropriation, the Consultant shall replenish the Performance Security within 1 (one) month of its appropriation, and in the event of default by the Consultant, MOR shall have the right to take such steps as it may deem necessary, including termination of this Agreement.

### **7.3 Penalty for deficiency in Services**

In addition to the liquidated damages not amounting to penalty, as specified in Clause 7.2, warning may be issued to the Consultant for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of MOR, other penal action including debarring for certain period may also be initiated as per policy of MOR.

## **8. FAIRNESS AND GOOD FAITH**

### **8.1 Good Faith**

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

### **8.2 Operation of the Agreement**

The Parties recognise that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement 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 9 hereof.

## **9. SETTLEMENT OF DISPUTES**

### **9.1 Amicable settlement**

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

### **9.2 Dispute resolution**

9.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “**Dispute**”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 9.3.

9.2.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access

during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

### **9.3 Conciliation**

In the event of any Dispute between the Parties, either Party may call upon Chairman, Railway Board and the Chairman of the Board of Directors of the Consultant for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 9.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 9.4.

### **9.4 Arbitration**

- 9.4.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by a Board of Arbitrators appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the “**Rules**”), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The venue of such arbitration shall be Delhi, and the language of arbitration proceedings shall be English.
- 9.4.2 There shall be a Board of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.
- 9.4.3 The arbitrators shall make a reasoned award (the “**Award**”). Any Award made in any arbitration held pursuant to this Clause 9 shall be final and binding on the Parties as from the date it is made, and the Consultant and the Government agree and undertake to carry out such Award without delay.
- 9.4.4 The Consultant and the Government agree that an Award may be enforced against the Consultant and/or the Government, as the case may be, and their respective assets wherever situated.



9.4.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of  
Consultant:

(Signature)  
(Name)  
(Designation)  
(Address)  
(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of  
Government of India  
(Ministry of Railways)

(Signature)  
(Name)  
(Designation)  
(Address)  
(Fax No.)

In the presence of:

1.

2.

#### Annex -1

### TERMS OF REFERENCE

#### 1 Scope of Services

The scope of the consultancy would entail drafting of “Request for Proposal” (RFP) for invitation of bids for the **EPC, BOT and Procurement-cum-ToT Agreements**, (the “**Bid Documents**”) for setting up the **Production Unit** and Evaluation of Bids received in response thereof. and Evaluation of Bids received in response thereof. and Evaluation of Bids received in response thereof.. The Consultant will be required to design the **Production Unit** including township, with detailed civil engineering construction design/drawing, factory lay out, manufacturing processes, M&P, specifications, jigs and fixtures, tooling, material handling equipment etc, and prepare Detailed Project Report, Detailed Estimate and BOQ. The Consultant will also be required to assist MOR during the bid processes for **EPC, BOT and Procurement-cum-ToT Agreements** in accordance with the Term of Reference (TOR)

hereof. The TOR includes legal vetting of all the documents drafted/reviewed by the Consultant.

## **2. Obligations of “The Consultant”**

### **2.1 Advisory on EPC Agreement:**

2.1.1 Ministry of Railway (MOR) proposes to set up the **Production Unit** to manufacture 1000 coaches per annum through an EPC Agreement. Selection of EPC Contractor will be on the basis of an International Competitive Bidding (ICB), bid document for which will be prepared by the Consultant. The bid document shall, *inter alia*, include/specify the following:

- Technical and financial evaluation criteria for pre-qualification of EPC Contractor, including guidelines and marking scheme;
- Detailed civil engineering design/drawing for setting up the coach manufacturing unit with an annual production capacity of 1000 coaches;
- Shop layout, process flow diagram, list of Machinery and Plants with specification, jigs and fixtures, special tools, material handling equipment etc. for manufacturing 1000 coaches/annum;
- Cycle time for coach manufacture;
- Average manpower required per coach based on best international practices;
- Scheme for capacity proving of Rail Coach Factory for manufacturing 1000 coaches per annum;
- Detailed civil engineering architectural design/drawing for the township and essential utilities, required for residential accommodation of officers and staff of Production Unit. This will include colony layout, landscaping, water supply system, drainage, sewer line, roads, road over/under-bridge for connecting factory and colony, essential support facilities such as shopping complex, sports facility, hospital, auditorium, lake, eco-park and application of modern town planning concepts such as pollution control and energy saving measures; and
- Bill of Quantity, specification and such other detail as required by EPC contractor for construction of Production Unit and township.

2.1.3 The Consultant will also be responsible for the following:

- Preparation of Detailed Project Report (DPR) for setting up

Rail Coach Factory for manufacturing 1000 coaches/annum;

- Detailed Estimate of Costs; and
- Bill of Quantity.

2.1.3 The Consultant will be required to facilitate construction of factory and township by EPC contractor by giving necessary clarification on the design/drawing, specification as may be necessary during project execution.

## **2.2 Advisory on BOT Agreement:**

2.2.1 Ministry of Railways proposes to outsource the activity of painting and garnet blasting of all the coaches to be manufactured in the **Production Unit** through a BOT Agreement. Selection of BOT Contractor will be on the basis of an International Competitive Bidding (ICB), bid document for which will be prepared by the Consultant. The bid document shall, *inter alia*, include/specify the following:

- Technical and financial evaluation criteria for pre-qualification of BOT Contractor including guidelines and marking schemes;
- Deliverables for setting up facilities for carrying out the nominated outsourced activity;
- Terms and conditions for Maintenance and Operation of Facility and its transfer to IR at the end of BOT Contract;
- Price variation clause;

*Technical specification will be provided by MOR.*

## **2.3 Advisory on Procurement-cum-ToT Agreement:**

2.3.1 Ministry of Railways proposes to bridge the technology gap in the manufacture of coach by acquiring technology from an internationally reputed coach manufacturer through a Procurement-cum-ToT Agreement. Selection of Technology Provider will be on the basis of an International Competitive Bidding (ICB), bid document for which will be prepared by the Consultant. The bid document shall, *inter alia*, include/specify the following:

- Technical and financial evaluation criteria for pre-qualification of Technology Provider including guidelines and marking schemes;
- Terms and conditions for supply of double decker coaches with air suspension bogies and Self-propelled Accident Relief Train (SPART) Coaches;

- Terms and conditions for ToT for manufacturing Double Decker coaches, air suspension bogies, couplers and SPART.

2.4 The Consultant shall present the possible bidding parameters along with the evaluation criteria and methodology and firm up their recommendations after consultation with MOR. The bidding and evaluation criteria shall aim at promoting a fair and transparent process of competitive bidding.

#### 2.5 **Assistance in Bid Process**

In addition to preparation of bid documents the Consultant shall also assist MOR in the bid process, which will typically comprise of:

- Assistance in responding to queries from bidders;
- Attending pre-bid conferences;
- Preparation of addenda, corrigendum, etc;
- Legal vetting of all the documents drafted/reviewed by the Consultant;
- Evaluation of bids received.

#### 3.0 **Deliverables**

The Consultant shall deliver the following during the course of this Consultancy. The deliverables shall be so drafted in such a way that they are complete in all respects and they could be given to the bidders for preparation of their Bids. Five hard copies and five soft copies in CDs of all the Reports mentioned herein below shall be submitted to MOR. The deliverables shall include:

##### **A. Inception Report**

On commencement of the Consultancy, the Consultant shall prepare and submit an Inception Report (the “**Inception Report**”). The Inception Report shall be a further elaboration of the Consultant’s submissions towards understanding of the RFP, the methodology to be followed and Work Plan.

##### **B. Detailed Project Report of Production Unit;**

##### **C. Detailed Estimate and BOQ;**

##### **D. Bid documents (Refer Clauses 2.1,2.2 ,2.3 and 2.4);**

##### **E. Assistance in pre-Bid meetings (Refer Clause 2.5).**

#### 4.0 **Assistance in pre-bid meetings etc.**

The Consultant shall assist MOR in pre-bid meetings in addressing queries of the bidders and in amending the Bid documents as may be necessary.

#### 5. **Time and payment schedule**

5.1 Consultant shall deploy his Key Personnel at its project office in Delhi (the “**Project Office**”) as per Manning Schedule proposed. After

submission of the Bid Documents, the Consultant will be expected to participate in pre-bid conference and in assisting MOR in responding to queries from bidders, including amendment of the Bid Documents as necessary. MOR may also require the consultant to provide additional services after Completion of Services. For such additional services, economy air return fare and per diem at the agreed man day rates shall be reimbursed to the Consultant. For travel associated with the additional services, per diem for one day would be provided by way of travel time to and from Delhi in case of Expatriate Personnel.

- 5.2 Time schedule for submission of important deliverables, shall be determined by the maximum permissible number of days from the Effective Date of the Agreement (the “**Key Dates**”). The Key Dates and payment schedule linked to the specified deliverables are given below:

| <b>Key Date No.</b> | <b>Description of deliverables</b>                     | <b>Key Date</b>                             | <b>Payment</b> |
|---------------------|--|---|----------------|
| KD1                 | Inception Report                                       | 14  | 10%            |
| KD2                 | MOR’s approval of Inception Report                     | 21  |                |
| KD3                 | Detailed Project Report                                | 120   | 15%            |
| KD4                 | Detailed Estimate & BOQ                                | 150   |                |
| KD5                 | Draft Bid Document for EPC Agreement                   | 150   | 20%            |
| KD6                 | MOR’s approval of Draft Bid Document for EPC Agreement | 180   |                |
| KD7                 | Final Bid document for EPC Agreement                   | 5 days after MOR’s approval                 |                |
| KD8                 | Evaluation of EPC bids by Consultant.                  | 15 days after bid due date for EPC contract | 5%             |
| KD9                 | LOA to successful EPC bidder.                          | 60 days after bid due date for EPC contract |                |
| KD10                | *Draft Bid Document for BOT Agreements                 | 75  | 15%            |

|      |  |   |     |
|------|--|---|-----|
| KD11 | MOR's approval of Draft Bid Document for BOT Agreement                 | 105   |     |
| KD12 | Final Bid document for BOT Agreement                                   | 5 days after MOR's approval   |     |
| KD13 | Evaluation of BOT bids.  | 15 days after the due date for receiving bids for BOT Agreement           | 5%  |
| KD14 | LOA to successful BOT bidder   | 60 days after bid due date for receiving BOT bids                         |     |
| KD15 | Draft Bid Document for Procurement-cum-ToT Agreement                   | 75  | 15% |
| KD16 | MOR's approval of Draft Bid Document for Procurement-cum-ToT Agreement | 105   |     |
| KD17 | Final Bid document for Procurement-cum-ToT Agreement                   | 5days after MOR's approval.   |     |
| KD18 | Evaluation of bids for Procurement-cum-Agreement.                      | 15 days after Bid due date for Procurement-cum-ToT contract               | 5%  |
| KD19 | LOA to successful Technology Provider                                  | 60 days after bid due date for receiving Procurement-cum-ToT contract bid |     |
| KD20 | Commissioning of Factory   | Date of commissioning or 3 years from the date                            | 10% |

|              |  |  |             |
|--------------|--|--|-------------|
|              |  | of LOA to successful EPC bidder, whichever is earlier. |             |
| <b>Total</b> |  |  | <b>100%</b> |

*\*Nominated activities for out-sourcing are- painting and garnet blasting of coaches. For any additional out-sourcing activity included later by MOR in the scope of consultancy, the Consultant will be paid additional fee at the rate of 1/4<sup>th</sup> of the relevant milestone payment due for BOT consultancy(items KD10 and KD13).*

*MOR shall retain by way of performance security (the "Performance Security"), 5% (five percent) of all the amounts due and payable to the Consultant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2 , Schedule -2, Form of Agreement. The balance remaining out of the Performance Security shall be returned to the Consultant at the end of three months after the expiration of the Agreement pursuant to Clause 2.4 thereof.*

*The Consultant may, in lieu of retention of the amounts as referred to above, furnish a Bank Guarantee from a Scheduled Bank in India substantially in the form specified at Annex-5 of the Agreement.*

## Annex - 2

### Deployment of Personnel

- 1.1 The Professional Personnel listed in Annex-2 of the Agreement are hereby approved by MOR. No other Professional Personnel shall be engaged without prior approval of MOR.
- 1.2 If the Consultant hereafter proposes to engage any person as Professional Personnel, it shall submit to MOR its proposal along with a CV of such person in the form provided at Appendix-I (Form-12) of the RFP. MOR may approve or reject such proposal within 10 (ten) days of receipt thereof. In case the proposal is rejected, the Consultant may propose an alternative person for MOR's consideration. In the event MOR does not

reject a proposal within fourteen (14) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by MOR.

### 1.3 Substitution of Key Personnel

MOR expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. MOR will not consider any substitution of Key Personnel except under exceptional circumstances. Such substitution shall be limited to one Key Personnel and subject to equally or better qualified and experienced personnel being provided. Substitution of a Key Personnel shall be permitted subject to reduction of Agreement Value by 5% (five percent) for each substitution.

### 1.4 Team Leader

The person designated as Procurement Expert shall serve as the Team Leader of the Consultant's Personnel.

## Annex-3

### Cost of Services

(Refer Clause 6.1)

| Item No.  | Description  | Amount (Rs.) |
|-----------|--|--------------|
| <b>A.</b> | <b>PERSONNEL AND LOCAL COSTS</b>   |              |
| <b>B</b>  | <b>OVERHEAD EXPENSES AS % OF (A)</b>   |              |
| <b>C</b>  | <b>TOTAL COST (A+B) (in Rs.)</b>   |              |
| <b>D</b>  | <b>ADDITIONAL COSTS</b>  |              |
| I         | Travel from Firm's Office to Delhi (restricted to three return full fare economy class air fares for each Key Personnel) |              |
| II        | <b>Taxes and Duties</b>  |              |
|           | a. All taxes payable by Expatriate Personnel in India on their income  |              |
|           | b. Service Tax   |              |



|          |  |  |
|----------|--|--|
|          | <b>Total of Additional Costs (E)</b>   |  |
| <b>E</b> | <b>TOTAL COST OF THE CONSULTANCY (C+D)</b><br>In Indian Rupees in Figures<br>In<br>Words _____ |  |

**Note:**

1. Air Fare in Item D I shall not be payable to the Consultant's Key Personnel who are normally stationed in Delhi.
2. The financial evaluation shall be based on the above Financial Proposal, excluding Additional Costs. The total in Item C shall, therefore, be the amount for purposes of evaluation. Additional Costs in Item D shall not be reckoned for purposes of financial evaluation.
3. The reimbursement of expenses shall be limited to the amounts indicated above.
4. No escalation on any account will be payable on the above amounts.
5. Insurance and any other charges not shown here are considered included in the Total Cost.
6. All payments shall be made in Indian Rupees. Overseas remittances shall be subject to applicable taxes such as Indian withholding taxes if any.

Annex-4  
**Payment Schedule**  
*(Refer Clause 5.2)*

| <b>Key Date No.</b> | <b>Description of deliverables</b>                     | <b>Key Date</b>   | <b>Payment</b> |
|---------------------|--|---|----------------|
| KD1                 | Inception Report                                       | 14  | 10%            |
| KD2                 | MOR's approval of Inception Report                     | 21  |                |
| KD3                 | Detailed Project Report                                | 120   | 15%            |
| KD4                 | Detailed Estimate & BOQ                                | 150   |                |
| KD5                 | Draft Bid Document for EPC Agreement                   | 150   | 20%            |
| KD6                 | MOR's approval of Draft Bid Document for EPC Agreement | 180   |                |
| KD7                 | Final Bid document for EPC Agreement                   | 5 days after MOR's approval                                     |                |
| KD8                 | Evaluation of EPC bids by Consultant.                  | 15 days after bid due date for EPC contract                     |                |
| KD9                 | LOA to successful EPC bidder.                          | 60 days after bid due date for EPC contract                     |                |
| KD10                | *Draft Bid Document for BOT Agreements                 | 75  | 15%            |
| KD11                | MOR's approval of Draft Bid Document for BOT Agreement | 105   |                |
| KD12                | Final Bid document for BOT Agreement                   | 5 days after MOR's approval                                     |                |
| KD13                | Evaluation of BOT bids.                                | 15 days after the due date for receiving bids for BOT Agreement | 5%             |
| KD14                | LOA to successful BOT bidder                           | 60 days after   |                |

|              |   |   |             |
|--------------|---|---|-------------|
|              |   | bid due date<br>for receiving<br>BOT bids   |             |
| KD15         | Draft Bid Document for<br>Procurement-cum-ToT Agreement   | 75  | 15%         |
| KD16         | MOR's approval of Draft Bid<br>Document for Procurement-cum-<br>ToT Agreement                                     | 105   |             |
| KD17         | Final Bid document for<br>Procurement-cum-ToT Agreement   | 5 days after<br>MOR's<br>approval   |             |
| KD18         | Evaluation of bids for Procurement-<br>cum-Agreement.   | 15 days after<br>Bid due date<br>for<br>Procurement-<br>cum-ToT<br>contract               | 5%          |
| KD19         | LOA to successful Technology<br>Provider  | 60 days after<br>bid due date<br>for receiving<br>Procurement-<br>cum-ToT<br>contract bid |             |
| KD20         | Commissioning of Factory or 3<br>years from the date of LOA to<br>successful EPC bidder, whichever<br>is earlier. |   | 10%         |
| <b>Total</b> |   |   | <b>100%</b> |

*\*Nominated activities for out-sourcing are- painting and garnet blasting of coaches. For any additional out-sourcing activity included later by MOR in the scope of consultancy, the Consultant will be paid additional fee at the rate of 1/4<sup>th</sup> of the relevant milestone payment due for BOT consultancy(items KD10and KD13).*

*MOR shall retain by way of performance security (the "Performance Security"), 5% (five percent) of all the amounts due and payable to the Consultant, to be appropriated against breach*

*of this Agreement or for recovery of liquidated damages as specified in Clause 7.2 , Schedule -2, Form of Agreement. The balance remaining out of the Performance Security shall be returned to the Consultant at the end of three months after the expiration of the Agreement pursuant to Clause 2.4 thereof.*

*The Consultant may, in lieu of retention of the amounts as referred to above, furnish a Bank Guarantee from a Scheduled Bank in India substantially in the form specified at Annex-5 of the Agreement.*

Annex- 5

**Bank Guarantee for Performance Security**

*(Refer Clause 7.1.2)*

To

The President of India

(acting through

CHIEF PROJECT MANAGER

RCF/RBL PROJECT

OLD TA BUILDING

KISHANGANJ,

DELHI-110007 (India)

Phone:+91-11-23695824\_Fax:+91-11-23695824

Email:cpmrcfrbl@gmail.com

In consideration of Ministry of Railways acting on behalf of the President of India (hereinafter referred as the “MOR”, which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s \_\_\_\_\_, having its office at \_\_\_\_\_ (hereinafter referred as the “Consultant” which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), a consultancy by issue of MOR’s Agreement no. \_\_\_\_\_ dated \_\_\_\_\_ valued at Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ ) for providing Consultancy Appointment of consultant for setting up of departmental Production Unit for manufacturing of Rail coaches for Indian Railways (hereinafter referred to as the “Agreement”), and the Consultant having agreed to furnish a Bank Guarantee amounting to Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ ) to MOR for performance of the said Agreement.

We, \_\_\_\_\_ (hereinafter referred to as the “Bank”) at the request of the Consultant do hereby undertake to pay to MOR an amount not exceeding Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) against any loss or damage caused to or suffered or would be caused to or suffered by MOR by reason of any breach by the said Consultant of any of the terms or conditions contained in the said Agreement.

2. We, \_\_\_\_\_ (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from MOR stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by MOR by reason of breach by the said Consultant of any of the terms or conditions contained in the said Agreement or by reason of the Consultant’s failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_).

3. We undertake to pay to MOR any money so demanded notwithstanding any dispute or disputes raised by the Consultant in any suit or proceeding pending before any court or Tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Consultant shall have no claim against us for making such payment.

4. We, \_\_\_\_\_ (indicate the name of Bank) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of MOR under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till MOR certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Consultant and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before a period of [one year] from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.

5. We, \_\_\_\_\_ (indicate the name of Bank) further agree with MOR that MOR shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Consultant from time to time or to postpone for any time or from time to

time any of the powers exercisable by MOR against the said Consultant and to forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Consultant or for any forbearance, act or omission on the part of MOR or any indulgence by MOR to the said Consultant or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us .

6. This guarantee will not be discharged due to the change in the constitution of the Bank or the Consultant(s).

7. We, \_\_\_\_\_ (indicate the name of Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of MOR in writing.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 200\* For \_\_\_\_\_

(Name of Bank)

Signature, Name and Designation of the Authorised Signatory)

Seal of the Bank:

NOTES:

- (i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- (ii) The address, telephone no. and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

**APPENDICES**  
**APPENDIX-I**  
**TECHNICAL PROPOSAL**

Form-1

**Letter of Proposal**

(On Applicant's letter head)

(Date and Reference)

To,

CHIEF PROJECT MANAGER

RCF/RBL PROJECT

OLD TA BUILDING

KISHANGANJ,

DELHI-110007 (India)

Phone:+91-11-23695824 Fax:+91-11-23695824

Email:cpmrcfrbl@gmail.com

Sub: Appointment of consultant for setting up of departmental Production Unit for manufacturing of Rail coaches for Indian Railways.

Dear Sir,

1. With reference to your RFP Document dated \*\*\*\*\*, I/We, having examined all relevant documents and understood their contents, hereby submit our Proposal for appointment of consultant for setting up of departmental Production Units for manufacturing of coaches for Indian Railways. The proposal is unconditional and unqualified.
2. All information provided in the Proposal and in the Appendices is true and correct and all documents accompanying such Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of appointment as the Consultant for the aforesaid Project.
4. I/We shall make available to MOR any additional information it may find necessary or require to supplement or authenticate the Proposal.
5. I/We acknowledge the right of MOR to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. I/We declare that:

- (a) I/We have examined and have no reservations to the RFP Document, including any Addendum issued by MOR;
  - (b) I/We do not have any conflict of interest in accordance with Clause 2.3 of the RFP Document; and
  - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with MOR or any other public sector enterprise or any government, Central or State; and
  - (d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the RFP, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
7. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Consultant, without incurring any liability to the Applicants in accordance with Clause 2.7 of the RFP document.
  8. I/We declare that We/any member of the consortium, are/ is not a Member of a/any other Consortium applying for Selection as a Consultant.
  9. I/We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.
  10. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
  11. I/We hereby irrevocably waives any right which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by MOR and / or the Government of India in connection with the selection of Consultant or in connection with the Selection Process itself, in respect of the above mentioned Project.
  12. I/We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, I/We shall have any claim or right of



whatsoever nature if the Consultancy for the Project is not awarded to me/us or our proposal is not opened.

13. I/We agree to keep this offer valid for 90 days from the Proposal Due Date specified in the RFP.
14. A Power of attorney in favour of the authorised signatory to sign and submit this Proposal and documents is also attached herewith in Form 4.
15. In the event of my/our being selected as the Consultant, I/We agree to enter into an Agreement in accordance with the format at Schedule – II of the RFP. We agree not to seek any changes in the aforesaid format and agree to abide by the same.
16. I/We have studied RFP and all other documents carefully and also surveyed the project site. We understand that except to the extent as expressly set forth in the Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by MOR or in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Consultancy.
17. The Financial Proposal is being submitted in a separate cover. This Technical Proposal read with the Financial Proposal shall constitute the Application which shall be binding on us.
18. I/We agree and undertake to abide by all the terms and conditions of the RFP Document.

In witness thereof, I/we submit this Proposal under and in accordance with the terms of the RFP Document.

Yours faithfully,

(Signature of the Authorised Signatory)

(Name and designation of the Authorised Signatory)

(Name and seal of the Applicant / Lead Member)

APPENDIX-I

Form-2

**Particulars of the Applicant**

|    |  |
|----|--|
| 1. | Title of Consultancy:<br>Appointment of consultant for setting up of departmental Production Units for manufacturing coaches for Indian Railways.  |
| 2. | Title of Project:<br>Departmental Production Units For Manufacturing Coaches For Indian Railways.  |
| 3. | <p>State the following:</p> <p>Name of Company or Firm:</p> <p>Legal status (e.g. incorporated private company, unincorporated business, partnership etc.):</p> <p>Country of incorporation:</p> <p>Registered address:</p> <p>Year of Incorporation:</p> <p>Year of commencement of business:</p> <p>Principal place of business:</p> <p>Brief description of the Company including details of its main lines of business</p> <p>Particulars of individual(s) who will serve as the point of contact/communication with MOR:</p> <p>(a) Name:</p> <p>(b) Designation:</p> <p>(c) Company:</p> <p>(d) Address:</p> <p>(e) Telephone Number:</p> <p>(f) E-Mail Address :</p> <p>(g) Fax Number:</p> <p>Name, Designation, Address and Phone Numbers of Authorised Signatory of the Applicant:</p> <p>Name:</p> <p>Designation:</p> <p>Company:</p> <p>Address:</p> <p>Phone No.:</p> <p>Fax No. :</p> |

|    |  |
|----|--|
| 4. | <p>State the following for each of the other Member Firms:</p> <p>(i) Name of Firm:</p> <p>(ii) Legal Status and country of incorporation</p> <p>(iii) Registered address and principal place of business.</p>   |
| 5. | <p>State the following information for each Member:</p> <p>i) In case of non Indian company, does the company have business presence in India?<br/>Yes/No<br/>If so, provide the office address(es) in India.</p> <p>ii) Has the Applicant or any member of the consortium been blacklisted by any Govt. department/Public Sector Undertaking in the last five years?<br/>Yes/No</p> <p>iii) Has the Applicant or any of the members, in case of a consortium, suffered bankruptcy/insolvency in the last five years?<br/>Yes/No</p> <p><b>Note: If answer to any of the questions at ii) to iii) is yes, the Applicant is not eligible for this consultancy assignment.</b></p>               |
| 6. | <p>Does the Applicant's firm/company (or any member of the consortium) combine functions as a consultant or designer along with the functions as a contractor and/or a manufacturer?<br/>Yes/No</p> <p>If yes, then for this work does the Applicant (and other member of the Applicant's consortium) agree to limit the Applicant's role only to that of a consultant/ designer and to disqualify themselves, their associates/ affiliates and/or parent organization subsequently from work on this project in any other capacity (including tendering relating to any goods or services for any part of this project) other than that of consultant and/or designer for MOR?<br/>Yes/No</p> |
| 7. | <p>Does the Applicant intend to borrow or hire temporarily, personnel from contractors, manufacturers or suppliers for performance of the Consulting Services?<br/>Yes/No</p> <p>If yes, does the Applicant agree that it will only be acceptable as Consultant, if those contractors, manufacturers and suppliers disqualify</p>  |

|  |  |
|--|--|
|  | <p>themselves from subsequent execution of work on this project (including tendering relating to any goods or services for any other part of the project) other than that of the Consultant?</p> <p>Yes/No</p> <p>If yes, have any undertakings been obtained (and annexed) from such contractors, manufacturers, etc. that they agree to disqualify themselves from subsequent execution of work on this project and they agree to limit their role to that of consultant/ designer for MOR only?</p> <p>Yes/No</p> |
|--|--|

APPENDIX-I

Form-3

**Statement of Legal Capacity**

*(To be forwarded on the letter head of the Applicant)*

Ref. Date:

To,

CHIEF PROJECT MANAGER

RCF/RBL PROJECT

OLD TA BUILDING

KISHANGANJ,

DELHI-110007 (India)

Phone:+91-11-23695824 Fax:+91-11-23695824

Email:cpmrcfrbl@gmail.com

Dear Sir,

We hereby confirm that we, the Applicant (along with other members in case of consortium, constitution of which has been described in the Proposal\*), satisfy the terms and conditions laid out in the RFP process.

We have agreed that \_\_\_\_\_ (insert Applicant's name) will act as the Lead Member of our consortium.

We have agreed that \_\_\_\_\_ (insert individual's name) will act as our Authorised Representative/ will act as the Authorised Representative of the consortium on our behalf and has/have been duly authorized to submit the RFP. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Yours faithfully,

Authorised Signatory

For and on behalf of \_\_\_\_\_

*\*Please strike out whichever is not applicable*

# APPENDIX-I

## Form-4

### **Power of Attorney**

Know all men by these presents, We, \_\_\_\_\_ (name of firm and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr / Ms \_\_\_\_\_ son/daughter/wife and presently residing at \_\_\_\_\_, who is presently employed with us and holding the position of \*\*\*\*\* as our true and lawful attorney (hereinafter referred to as the “Authorised Representative”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Proposal for and selection as the Consultant for setting up of departmental Production Unit for manufacturing of Rail Coaches for Indian Railways but not limited to signing and submission of all applications, proposals and other documents and writings, participate in pre-bid and other conferences and providing information/ responses to MOR, representing us in all matters before MOR, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with MOR in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the entering into of the Agreement with MOR.

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

IN WITNESS WHEREOF WE, \_\_\_\_\_ THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200\*For

\_\_\_\_\_  
(Signature)

(Name, Title and Address)

Witnesses:

1.

[Notarised]

2.

Accepted

\_\_\_\_\_

(Signature)

(Name, Title and Address of the Attorney)

*Notes:*

*The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*

*Also, wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant :*

*For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.*

APPENDIX-I

Form-5

**Financial Capacity of the Applicant**

(Refer Clause 2.2.2 (B) of RFP)

| S. No. | Financial Year | Annual Revenue<br>(Rs./US \$ in million) |
|--------|----------------|--|
| 1.     |                |  |
| 2.     |                |  |
| 3.     |                |  |

**Certificate from the Auditor**

This is to certify that \*\*\*\*\* (name of the Applicant) has received the payments shown above against the respective years on account of professional fees.

Name of Authorised Signatory:

Designation:

Name of firm:

(Signature of the Authorised Signatory)

Seal of firm

**Note:**

1. Please do not attach any printed Annual Financial Statement.



APPENDIX-I  
Form-6  
**Particulars of Key Personnel**

| Designation of Key Personnel   | Name | Educational Qualification | Length of Professional Experience | Present Employment |                | No. of Eligible Assignments <sup>#</sup> |
|--|------|---------------------------|-----------------------------------|--------------------|----------------|--|
|  |      |                           |                                   | Name of Firm       | Employed Since |  |
| Procurement Expert<br>Rolling Stock Expert<br>Mechanical Expert<br>Legal Expert<br>Financial Expert<br>Structural Expert<br>Civil Engineering Expert<br>PPP/BOT Expert |      |                           |                                   |                    |                |  |

<sup>#</sup>Refer Form 9 of Appendix I Experience of Key Personnel

## APPENDIX-I

### Form-7

#### **Proposed Methodology and Work Plan**

The descriptive part of submission under this will be detailed precisely under the following topics.

- 1) Understanding of TOR not more than two pages  
The Applicant will submit his understanding of the TOR specified in the RFP in a brief manner underlying the crucial and important aspects of it. The Applicant may supplement various requirements of the TOR if he considers this would bring more clarity and improvements over the existing requirements and assist in achieving the Objectives laid down in the TOR.
- 2) Methodology and Work Plan not more than three pages  
The Applicant will submit his methodology for carrying out this assignment, outlining his approach toward achieving the Objectives laid down in the TOR. The Applicant will submit a brief write up on their proposed team and organization of personnel explaining how various areas of expertise needed for this assignment have been fully covered by their proposal. The Applicant should specify the sequence and locations of important activities, and quality assurance plan for carrying out the Consultancy Services.

APPENDIX-I  
Form-8  
**Experience of the Applicant<sup>#</sup>**  
 (Refer Clause 3.1)

| S.No | Name of Project | Estimated capital cost<br>of project (in Rs cr./<br>US\$ million) ## |
|------|-----------------|--|
| (1)  | (2)             | (3)  |
| 1    |                 |  |
| 2    |                 |  |
| 3    |                 |  |
| 4    |                 |  |
| 5    |                 |  |
| 6    |                 |  |
| 7    |                 |  |

# The Applicant should provide details of only those projects that have been successfully executed by it under its own name.

## Exchange rate should be taken as Rs. 50 per US \$ for converting to Rs.

\* The names and chronology of Eligible Projects included here should conform to the project-wise details submitted in Form-10 of Appendix-I.

APPENDIX-I  
Form-9  
**Experience of Key Personnel<sup>@</sup>**  
(Refer Clause 3.1)

Name of Key Personnel:

Designation:

| S.No | Name of Project | Capital cost of project (in Rs cr./ US\$million) | Name of firm for which the Key Personnel worked | Designation of the Key Personnel on the project | Date of successful completion of project assignment | Mandays spent |
|------|-----------------|--|---|---|---|---------------|
| (1)  | (2)             | (3)  | (4)   | (5)   | (6)   | (7)           |
| 1    |                 |  |   |   |   |               |
| 2    |                 |  |   |   |   |               |
| 3    |                 |  |   |   |   |               |
| 4    |                 |  |   |   |   |               |

@ Use separate Form for each Key Personnel.

## APPENDIX-I

Form-10**Eligible Assignments of Applicant**

(Refer Clause 3.1.4)

|   |  |
|---|--|
| Name of Applicant:  |  |
| Name of the Project:  |  |
| Description of services performed by the Applicant firm:    |  |
| Name of client and Address:                                 |  |
| Name, telephone no. and fax no. of client's representative: |  |
| Capital cost (in Rs cr. or US\$ million):                   |  |
| Start date and finish date of the services (month/ year):   |  |
| Brief description of the project:                           |  |
|   |  |

**Notes:**

Use separate sheet for each Eligible Project.

Attach a single page summary containing the brief particulars of each project alongwith.

Exchange rate should be taken as Rs.50 per US \$ for converting in Indian Rupees.

## APPENDIX-I

Form-11**Eligible Assignments of Key Personnel**

(Refer Clause 3.1.4)

|   |  |
|---|--|
| Name of Key Personnel:  |  |
| Designation of Key Personnel:   |  |
| Name of the Project:  |  |
| Name of Consulting Firm where employed:   |  |
| Description of services performed by the Key Personnel (including designation): |  |
| Name of client and Address:   |  |
| Name, telephone no. and fax no. of client's representative:                     |  |
| Capital cost (in Rs cr. or US\$ million)  |  |
| Start date and finish date of the services (month/ year)                        |  |
| Brief description of the project:   |  |
|   |  |

**Notes:**

Use separate sheet for each Eligible Project.

Attach a single page summary containing the brief particulars of each project .

Exchange rate should be taken as Rs. 50 per US \$ for converting in Indian Rupees.

## APPENDIX-I

### Form -12

#### **Curriculum Vitae (CV) of Professional Personnel**

1. Proposed Position:
2. Name of Personnel:
3. Date of Birth:
4. Nationality:
5. Educational Qualification:
6. Employment Record:  
(Starting with present position, list in reverse order, every employment held.)
7. List of projects on which the Personnel has worked  

|              |                                     |
|--------------|-------------------------------------|
| Project Name | Description of assignment performed |
|--------------|-------------------------------------|
8. Details of the current assignment and the time duration for which services are required for the current assignment.  
 Certification:
  - 1 I am willing to work on the assignment of consultancy for setting up of departmental Production Unit for manufacturing of Rail coaches for Indian Railways and I will be available for entire duration of the project assignment as required.
  - 2 I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications and my experience.

Signature of the Professional \_\_\_\_\_

Place \_\_\_\_\_

Date \_\_\_\_\_

Counter signature of the Authorised Representative  
of the firm \_\_\_\_\_

Place \_\_\_\_\_

Date \_\_\_\_\_

#### **Notes:**

Use separate form for each Professional Personnel

Each page of the CV shall be signed in blue ink by both the Personnel concerned and by the Authorised Representative of the Applicant firm. Photocopies will not be considered for evaluation.

APPENDIX-II  
**FINANCIAL PROPOSAL**

Form - 1

**Covering Letter**

(On Applicant's letter head)

(Date and Reference)

To,

CHIEF PROJECT MANAGER

RCF/RBL PROJECT

OLD TA BUILDING

KISHANGANJ,

DELHI-110007 (India)

Phone:+91-11-23695824 Fax:+91-11-23695824

Email:cpmrcfrbl@gmail.com

Dear Sir,

Subject: Appointment of consultant for setting up of departmental Production Unit for manufacturing of Rail coaches for Indian Railways.

I/We, \*\*\*\*\* (Applicant's name) herewith enclose the Financial Proposal for selection of my/our firm as Consultant for above.

I/We agree that this offer shall remain valid for a period of 90 (ninety) days from the Proposal Due Date or such further period as may be mutually agreed upon.

Yours faithfully,



(Authorised Representative)

Name:

Designation:

Address:

Note: The Financial Proposal is to be filled strictly as per the forms given in RFP.

APPENDIX-II  
Form - 2  
**Financial Proposal**

| Item No.  | Description  | Amount (Rs.) |
|-----------|--|--------------|
| <b>A.</b> | <b>PERSONNEL AND LOCAL COSTS</b>   |              |
| <b>B</b>  | <b>OVERHEAD EXPENSES AS % OF (A)</b>   |              |
| <b>C</b>  | <b>TOTAL COST (A+B) (in Rs.)</b>   |              |
| <b>D</b>  | <b>ADDITIONAL COSTS</b>  |              |
| I         | Travel from Firm's Office to Delhi (restricted to three return full fare economy class air fares for each Key Personnel) |              |
| II        | <b>Taxes and Duties</b>  |              |
|           | a. All taxes payable by Expatriate Personnel in India on their income  |              |
|           | b. Service Tax   |              |
|           | <b>Total of Additional Costs (E)</b>   |              |
| <b>E</b>  | <b>TOTAL COST OF THE CONSULTANCY (C+D)</b><br>In Indian Rupees in Figures<br>In Words_____                               |              |

**Note:**

1. Air Fare in Item D I shall not be payable to the Consultant's Key Personnel who are normally stationed in Delhi.
2. The financial evaluation shall be based on the above Financial Proposal, excluding Additional Costs. The total in Item C shall, therefore, be the amount for purposes of evaluation. Additional Costs in Item D shall not be reckoned for purposes of financial evaluation.
3. The reimbursement of expenses shall be limited to the amounts indicated above.
4. No escalation on any account will be payable on the above amounts.
5. Insurance and any other charges not shown here are considered included in the Total Cost.
6. All payments shall be made in Indian Rupees. Overseas remittances shall be subject to applicable taxes such as Indian withholding taxes if any.